



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK - CRIMINAL TERM - 93

THE PEOPLE OF THE STATE OF NEW YORK,

Ind.
5643/07

-against-

EDWARD GREEN,

Defendant

4603

100 Centre Street
New York, New York 10013
September 8, 2008

JURY TRIAL
03 2011

GONZALEZ, P.J.

CATTERSON

RICHTER

BEFORE: HONORABLE E. MCLAUGHLIN, JSC

ABDUS-SALAAM

APPEARANCES:

ROMAN

J.J.

For the People:

ROBERT MORGENTHAU ESQ.,
District Attorney, County of New York
BY: JASON BERLAND, ESQ.
Assistant District Attorney

For the Defendant:

18-B Assigned Counsel Panel
BY: ARNOLD KEITH, ESQ.

IV

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 THE CLERK: Calendar number two,
2 Edward Green.

3 Appearances.

4 MR. KEITH: Arnold Keith; Hornstein,
5 Palumbo & Keith.

6 MR. BERLAND: Jason Berland for the
7 People.

8 THE COURT: All right, let's do
9 Antommarchie, Sandoval, and any evidentiary
10 things. Let's get on with it.

11 MR. BERLAND: The People provided Counsel
12 with Rosario material. I do have the Rosario list
13 for the Court. Would you like me to begin with
14 Sandoval?

15 MR. KEITH: Before we do that, with
16 regard to the evidentiary ruling, there has been
17 quite a bit of discussion between myself and
18 Mr. Berland with regard to a possible disposition.

19 One of the arguments that's been raised
20 by the People or a part of our discussion was the
21 fact that upon entry to the apartment in question,
22 Mr. Green basically didn't do anything --

23 THE COURT: When you say "in question,"
24 meaning the fourth floor?

25 MR. KEITH: The fourth floor apartment.

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 THE COURT: Fine. Go ahead.

2 MR. KEITH: I believe during the Darden
3 hearing, there was some testimony to the effect
4 when the police were trying the keys in the
5 different apartments, when they got up to the
6 apartment that Mr. Green was in, they put the key
7 in, and I believe they indicated that they
8 announced police or words to that effect and
9 indicated they were coming in.

10 During the process, Mr. Green, in the
11 apartment, did not respond, just sat there, and
12 when they entered, he was just sitting there on
13 the couch.

14 Your Honor, I believe and I think it's
15 clear that it was perfectly within his right to do
16 that, and that there should be no inference of
17 guilt or consciousness of guilt because of his
18 non-response to the police activity.

19 THE COURT: What legally do you think I
20 would do or what instruction do you think I would
21 give to the jury? What are you seeking to
22 prevent?

23 MR. KEITH: I just want it clear to the
24 jury that they should not infer a consciousness of
25 guilt or any guilty behavior because he exercises

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 his right to do nothing.

2 THE COURT: Well, I would not be making
3 any comment at all unless and until we get to the
4 charge conference and somebody asks me to give a
5 consciousness of guilt charge. If there's a
6 request, almost certainly it would be granted,
7 but --

8 MR. KEITH: I would also --

9 THE COURT: I would never interrupt the
10 testimony to say, for example, when a police
11 officer would be testifying about a statement, I
12 would never interrupt to say anything about the
13 defendant's right to speak or not to speak. You
14 let the thing go.

15 My recollection of the testimony, I'm not
16 going to testify and I don't remember, my
17 recollection was your client was supposedly
18 sitting in the dark, not having said anything.

19 The jury can hear all of that and make
20 their own decision about what, if anything, it
21 means. There's nothing I would say other than to
22 give them a general consciousness of guilt charge,
23 if requested.

24 MR. KEITH: Well, then I would hope that
25 Your Honor would direct the People to not argue

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 that because if he did that, that's some indicia
2 of guilt.

3 THE COURT: They can argue that. Why
4 wouldn't they be allowed to argue that?

5 MR. KEITH: Because I believe he has a
6 constitutional right to not respond to police
7 officers.

8 THE COURT: You can argue that, but it's
9 in conjunction with everything else the jury will
10 be hearing.

11 MR. KEITH: I don't believe that legally
12 he was obligated to get up and open the door.

13 THE COURT: Nobody is suggesting that he
14 is. I might even, if you ask me, say he is not
15 required to get up and open the door.

16 MR. KEITH: I want the jury to know that.
17 If that's the law, I want the jury to know that.

18 THE COURT: Okay, but don't misunderstand
19 that the jury may still decide something adverse
20 to them. He's sitting in the dark during the day.
21 I don't know that.

22 MR. KEITH: That defeats the whole thing.

23 THE COURT: It doesn't defeat it. You
24 want 12 jurors -- whether he, Mr. Berland, can
25 prove the case, part of it is, I see a defendant

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 with a bloody knife standing over a dead body.

2 Part of it in some situations is, I saw
3 the defendant standing over the body before it
4 died. Other situations are rather, I saw a person
5 running down the stairs with a bloody knife in
6 their hand and when I ran upstairs, there is a
7 deceased body with a gaping hole in their throat.

8 All the varieties of factual testimony
9 that a jury has to analyze is just it. It's their
10 analysis. They're supposed to put common human
11 experience together as part of their factfinding
12 function. It's not for a judge to say what
13 they're supposed to think.

14 There are certain categories of things
15 where there is a law that says something. That
16 doesn't mean having heard what the law is the jury
17 isn't going to find adverse to whatever either
18 side is hoping that they'll find, but they
19 certainly can hear.

20 And, again, my recollection is a little
21 bit hazy. Let's assume, as I sort of remember it,
22 some time during the day that Mr. Green was
23 arrested --

24 Was it during the day?

25 MR. BERLAND: Late afternoon, early

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 evening.

2 MR. KEITH: November 1, 2007,
3 at 5:20 p.m.

4 THE COURT: So that can be analyzed both
5 ways, from both side's standpoint. He's tired.
6 He's had a hard day at work. He wants to sit in
7 the quiet room and close his eyes. That's fine.
8 The jury can decide that.

9 The jury can decide he walked into the
10 room in the dark, didn't know what, if anything,
11 was there, and sat down. That's fine, too.

12 For you to ask me to say that they can't
13 find something, the 600 or 825 years of law
14 doesn't enable me to do that.

15 MR. KEITH: I respectfully disagree. I
16 think that if the police officers come banging on
17 your door and you decide to sit there and not do
18 anything, that you are perfectly within your right
19 to do that and there is no consciousness of guilt
20 that should be attached to that. That's the
21 explanation of the law.

22 THE COURT: You used the word "your."
23 Was it his apartment?

24 MR. KEITH: I don't think that changes
25 the analysis, the fact that it wasn't his

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 apartment.

2 THE COURT: As they say in Latin, res
3 ipsa loquitur, the thing speaks for itself. The
4 jury then will get to hear the circumstances under
5 which the people think he got in the apartment,
6 whether it's valid or not and that will be in the
7 mix of what the jury is to factually decide.

8 What other evidentiary thing would you
9 like to discuss?

10 MR. KEITH: I want to make sure we're
11 clear. The People can argue that that action is a
12 consciousness of guilt?

13 THE COURT: Sure. If you think that's an
14 appeal issue --

15 MR. KEITH: I am not thinking about an
16 appeal. I am thinking about Mr. Green getting a
17 fair trial.

18 THE COURT: He'll get a fair trial.

19 MR. KEITH: I will have to argue to the
20 jury that he had a right not to do or say
21 anything.

22 THE COURT: I guess. I'm not the defense
23 lawyer. Let me see if I understand the facts.

24 MR. KEITH: Okay.

25 THE COURT: The police find contraband in

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 the room in which he's sitting. Yes or no?

2 MR. BERLAND: Correct.

3 MR. KEITH: Yes.

4 THE COURT: I am not suggesting that you
5 or I were there. They find drugs in the room in
6 which he was sitting?

7 MR. KEITH: In a safe in the room -- in a
8 closet in the room.

9 THE COURT: So the safe is locked, and
10 the jury will then get to decide if the door was
11 locked to the room in which one or two safes with
12 drugs in them are found. Then they get to decide
13 whether or not the lights, I guess, were on or off
14 when the police come through. Then, I guess, they
15 decide whether the police actually said police or
16 said anything, and then, I guess, they decide
17 whether there is an audible sign to an older man
18 across the door as a lock and door are being
19 fiddled with, and then they get to decide whether
20 the police detected any movement or Mr. Green
21 simply was sitting in the dark, literally and
22 figuratively, when they came in.

23 All of these things are part and parcel,
24 the whole makeup of this case and they vary
25 somewhat, the factual considerations that a jury

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 has to make from literally top to bottom in any
2 case that the jury is asked to decide.

3 No judge says anything more than that. If
4 you want me to, I will say he's got an absolute
5 right. I'm saying it not knowing what the proof
6 is going to be regarding the word "your."

7 When you said to me would I tell them
8 that he has an absolute right not to answer a
9 knock or a summons or direction or inquiry by the
10 police, it didn't dawn on me that there was an
11 issue about whose room it was.

12 If we're going to get to the point where
13 we're talking about an instruction to the jury
14 about the legal effects under certain different
15 factual predicates, his non-response, we need to
16 be understanding that it could be that if he has
17 no right to be there, and that's a factual
18 scenario I have to present to them, that might
19 affect what the law is about his right or
20 non-right to say anything.

21 If he has a right to be there, I'll
22 incorporate that in my instruction I have to give,
23 but we're beating this one to death. You are on
24 notice that it's not exactly the way you hoped it
25 to be and I'm certain that it's not a surprise.

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 MR. KEITH: Well, actually it is.

2 THE COURT: I know, but you get paid,
3 basically, to say it's a surprise, and it may be
4 and if it is, I'm wrong. Let's keep going.

5 MR. KEITH: Again, Your Honor, I'm sorry,
6 but I want to make sure we're clear on this.

7 THE COURT: I'm clear. I don't know about
8 you.

9 MR. KEITH: I know from the prosecutor's
10 perspective that that's basically the position
11 that they're taking, some indicia of guilt by
12 Mr. Green sitting there and doing nothing in this
13 dark room --

14 THE COURT: How did they start on this
15 discussion? You started. You wanted something
16 about no consciousness of guilt because he's
17 sitting there.

18 MR. KEITH: Your Honor, I strongly
19 believe that legally that is an erroneous
20 position. I believe this man has a right not do
21 anything.

22 THE COURT: We will flesh out the factual
23 circumstances in accordance with everything I've
24 said for the last 22 minutes now. Whatever it is,
25 it will be good news for you or bad news for you.

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 If it's good news, he'll be grateful. If it's bad
2 news, nothing you haven't experienced before in
3 your many, many decades of trial work, and you've
4 navigated all of the pitfalls within the trial
5 practice.

6 What's his position on Antommarchie,
7 unless there's some other evidentiary issue that,
8 pardon the expression, we can clear up easily?

9 MR. KEITH: Your Honor, I guess we can
10 provide you with the Sandoval/Antommarchie.

11 THE COURT: Then you get to ask him his
12 position on Antommarchie, since that appears to be
13 the simplest of the next things to do.

14 MR. KEITH: With regard to the
15 Antommarchie rights, I believe I sufficiently
16 explained them to Mr. Green, and he will waive his
17 rights in that regard.

18 THE COURT: Okay, fine.

19 Mr. Berland, why don't you do the
20 Sandoval with respect to criminal history if the
21 defendant testifies.

22 MR. KEITH: Is it possible that Mr. Green
23 could be uncuffed?

24 THE COURT: Yes, it is. Would you like
25 us to do that?

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 MR. KEITH: Yes, Your Honor.

2 THE COURT: They are physically capable
3 of doing that and we will now ask them to do it.

4 MR. KEITH: I will not be that difficult.

5 THE COURT: It's all right. That is in
6 keeping with my persnickiness. With keeping
7 with the ADA script, when they say, did you have
8 an opportunity to interview the witness, you will
9 likely hear me say, did you take the opportunity.
10 Having it and using it are two distinct things.

11 MR. KEITH: I understand.

12 THE COURT: They apparently don't. I've
13 made that point for no purpose for a long time.
14 What about Sandoval?

15 MR. BERLAND: Your Honor, the defendant,
16 Mr. Green, has a lengthy, lengthy criminal record
17 dating back to the Nixon administration. The
18 first felony was in 1969.

19 THE COURT: Not a Federal felony.

20 MR. BERLAND: Not a Federal felony.

21 THE COURT: Nor California.

22 MR. BERLAND: Just New York.

23 THE COURT: Tell me about that.

24 MR. BERLAND: I think for the sake of
25 fairness I want to focus on three felony

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 convictions. The last one, October 8, 1996
2 conviction here in New York County when the
3 defendant was convicted of Attempted Criminal Sale
4 of a Controlled Substance in the Third Degree, a
5 class A felony, where along with the co-defendant
6 he sold Ziploc bags of cocaine to an undercover at
7 160 West 133rd Street. He plead guilty and
8 received three to six years.

9 The second conviction is a Federal case.
10 March 24, 1994 was the date of the crime. He did
11 not plead guilty until July 1, 1996, to 18 U.S.
12 Code 924(c)(2), and that's Possession of a Firearm
13 During Drug Trafficking. In that case, and this
14 occurred in South Carolina, the defendant was
15 found in possession of a 12-gauge --

16 THE COURT: A 12 what?

17 MR. BERLAND: Shotgun. I do not know.
18 However, based on the information --

19 THE COURT: You cannot gauge its
20 accuracy.

21 MR. BERLAND: I cannot gauge how long the
22 barrel was. It was -- we have to assume it was
23 not a violent crime; however, it's still a felony.

24 The oldest case is an Attempted
25 Kidnapping in the First Degree from August 30,

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 1982. It's a Class B violent felony, where the
2 defendant abducted an individual by the name of
3 Woodrow Sulton (phonetic) with intent to compel
4 Anne Sulton to pay money for the release of
5 Woodrow Sulton.

6 Because the case was some time ago, not
7 sure of the relationship between the Woodrow
8 Sulton and Anne Sulton. I know the defendant fled
9 to South Carolina after the crime was committed
10 and was arrested seven months later.

11 MR. BERLAND: Based on these three felony
12 convictions, I believe it goes to the veracity and
13 honesty of the defendant. I think they are
14 substantive, and the jury should hear about them
15 and the underlying facts.

16 Regarding the attempted kidnapping, when
17 prior convictions are for crimes of dishonesty,
18 usually we think of theft or fraud, the Courts
19 often allow cross-examination of underlying facts.

20 The kidnapping is of a person. I think
21 that is clearly a crime of dishonesty. Although
22 it is an old case, I think the jury should hear
23 about the crime and some of the facts. That
24 pretty much wraps it up.

25 THE COURT: That's wrapping up your

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 discussion of his rap sheet?

2 MR. BERLAND: Correct, in under seven
3 minutes.

4 THE COURT: Fine. Mr. Keith.

5 MR. KEITH: Your Honor, I guess I should
6 go to the oldest case first. The kidnapping case
7 is 26 years ago. He received a sentence of two to
8 six on that accusation.

9 Your Honor, I don't think there's any
10 probative value into going into that crime at all.
11 I ask Your Honor to not mention the fact that
12 there is a felony conviction from 26 years ago.

13 Mr. Green is now 58 years old. That was
14 a different person and a different lifetime. I
15 don't think that conviction or any reference to
16 that conviction will have any probative value in
17 this case. Clearly, there will be some prejudicial
18 effect if it comes into play.

19 When you balance the scales, Your Honor
20 should consider not adding any reference to it at
21 all or at the very least to mention the fact that
22 there was a felony conviction from 26 years ago.

23 THE COURT: What else?

24 MR. KEITH: With regard to the Federal
25 conviction, Your Honor, he did plead to a Federal

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 weapons charge. I don't believe that charge says
2 possession of a weapon involved with narcotics. I
3 believe it simply says possession of a weapon.

4 It's fairly routine in Federal Court
5 whether the gun is in the home or place of
6 business, shotgun, rifle, a sentence of seven
7 months is usually the sentence that is imposed in
8 Federal Court.

9 It's my understanding that this was a
10 shotgun in a home. I don't believe that would be a
11 New York felony. It is what it is. It's a Federal
12 conviction that he received a five-year sentence
13 for.

14 I would ask Your Honor to just indicate
15 that he had a prior conviction in Federal Court.
16 I don't believe that's the equivalent of a New
17 York felony because of the factual nature of the
18 charge.

19 Lastly, with regard to the October 8,
20 1996 conviction for Attempted Criminal Sale of a
21 Controlled Substance in the Third Degree, in that
22 case, Mr. Green received a sentence of three to
23 six years that ran concurrent with the sentence he
24 received in Federal Court.

25 Because this case involves narcotics,

YVETTE PACHECO SENIOR COURT REPORTER

SANDOVAL

1 cocaine in particular, I would ask you to minimize
2 the prejudicial effect of hearing about another
3 cocaine conviction. Although it was from 12 years
4 ago, I just ask Your Honor to indicate that he had
5 a prior felony conviction.

6 THE COURT: Were there crimes that you
7 are alluding to asking about?

8 MR. BERLAND: Your Honor, although he
9 does have a lengthy record, I don't think it's
10 proper to go into crimes that occurred before
11 1982, and those were the other crimes on his
12 record.

13 If I can clear one thing up. Count two
14 of the Federal indictment which the defendant
15 plead guilty under the possession of that shotgun
16 was during and in relation to a drug trafficking
17 crime.

18 THE COURT: I accept what you read. Show
19 it to Mr. Keith and then I'll go ahead and make
20 the ruling.

21 MR. KEITH: I don't have the United
22 States Code with me. I believe the Code simply
23 says, with regard to Section 924, I believe it
24 just talks about weapons. It's my understanding
25 that in that case there was some underlying

YVETTE PACHECO SENIOR COURT REPORTER

DECISION

1 allegations with regard to narcotics. Mr. Green
2 did not plead to any narcotics charge, he just
3 pled to the weapons charge?

4 THE COURT: When the Court has to rule on
5 a Sandoval application, it has to answer two
6 questions. Will the testimony elicited on
7 cross-examination have a disproportionate and
8 improper impact on the triers of fact? And
9 whether apprehension of the introduction
10 undesirably deter a defendant from testifying and
11 denying the jury significant material evidence?

12 The Court of Appeals has taken pity by
13 providing guidelines and rules that we can employ
14 to use in the analysis of the proper balance to be
15 struck between a defendant being questioned about
16 the entirety of his or her criminal history versus
17 the defendant's being able, in a somewhat
18 unfettered status, to present a version of events
19 favorable to him or her. Oftentimes, as the Court
20 of Appeals has observed, oftentimes the only
21 source of information favorable to them.

22 The Court of Appeals has said that there
23 are basically three categories of cases analyzed.
24 One is the catch-all, the crimes that indicate a
25 person has a desire to place his or her interest

DECISION

1 ahead of society. The Ali Ramin (phonetic) choice
2 of crime where you repeatedly commit over a
3 demonstrable period of time the same kind of
4 criminal conduct. Finally, those crimes which are
5 more specifically directed towards honesty, such
6 as robberies and burglaries, larcenies and
7 perjuries.

8 The idea is to give both the defendant
9 some ability to testify, not completely encumbered
10 by their record, and giving the jury a realistic
11 basis to take credibility into account of the
12 ongoing evidence being inveighed to it by the
13 testifying defendant.

14 It's unfortunate that oftentimes in the
15 news over the last several years we have heard
16 about one or another form of kidnapping and it
17 strikes fear in everybody's heart. Whether a
18 defenseless child or somebody older, kidnapping is
19 one of those things that is difficult for somebody
20 to deal rationally with the idea of removing a
21 person from their normally anticipated life
22 routine.

23 Be it encumbered with criminality or
24 innocence, kidnapping is not something that the
25 judicial institution can overcome. So it seems to

DECISION

1 me were the jury to glean any fact regarding the
2 defendant's participating and being convicted and
3 fleeing from an allegation about kidnapping, there
4 would be no further effort to listen to what
5 Mr. Green had to say.

6 That doesn't mean that the fact of the
7 felony conviction is obscured or eradicated, but
8 certainly a reference to it can't be elicited
9 during the course of any cross-examination.

10 The difficulty with the Green situation
11 as it relates to Sandoval is the difficulty that
12 relates to many repeat offenders in the drug
13 realm. They are in a position of both saying I
14 haven't been convicted of drug cases to all in the
15 Ali Ramin regimen, and the ones convicted, you
16 shouldn't be allowed to use them because, after
17 all, what I'm on trial for is a drug case as well.

18 If we all remember, or at least I do,
19 before the Sandoval case under Schwartzman,
20 anything you ever did was properly the subject of
21 cross-examination under the old rules which,
22 obviously, produced significant unexpected
23 fairness most of the time, but the Sandoval rule
24 was not designed to shield entirely and recuse
25 from the responsibility of their past crime. It's

~~COLLOQUY~~

1 re-writing of history, but only to a certain
2 extent.

3 If Mr. Green were to testify, he can be
4 asked whether he has two felony convictions with
5 regard to the event as described in 1994. He can
6 be asked whether or not he possessed a shotgun.
7 And with regard to the 1996 case, he can be asked
8 whether he sold controlled substances to a person
9 who turned out to be an undercover officer in
10 Manhattan. I think that would be sufficient.

11 I do have a couple of cases on tomorrow,
12 but not enough that we can't do jury selection
13 tomorrow and finish jury selection on Wednesday
14 and then begin the testimony or part of the trial.
15 Do we work on Fridays or not?

16 MR. KEITH: No, Your Honor.

17 THE COURT: Don't think I'm signaling him
18 out. I ask this of virtually everybody who gives
19 me the response. I assume the only reason you are
20 going to trial is you expect to be acquitted. I
21 can't imagine any other reason other than you will
22 be acquitted.

23 I ask you to consider two things.
24 Whatever your answer, it's fine. If you are going
25 to be acquitted, you will get acquitted just that

COLLOQUY

1 much quicker if we work five days a week. The
2 other thing I'd like you to consider is the effect
3 of your not working on Friday on all of the other
4 people who want a trial who are presently
5 incarcerated in Riker's Island.

6 Not signaling you out again, but as
7 somebody who has been through the system, you may
8 remember the New York State Supreme Court criminal
9 term in Manhattan as having 53 judges. Right now,
10 we have got something like 32, some of whom their
11 courtroom assignments don't allow them to do any
12 trials at all, ever.

13 A certain percentage of judges do trials
14 only four days a week, if there is a five-day
15 week. Of course, those people don't have trials
16 if they have religiously-observing people on
17 Friday. And so, the point here is, as you can
18 undoubtedly glean, is the trial capacity is --

19 MR. KEITH: Your Honor, we'll work on
20 Fridays.

21 THE COURT: All right, fine. So there
22 you have it.

23 Anything else to discuss or do we take
24 the rest of the day off? Come in at ten after
25 ten; that way, I might be able to get a couple of

1 my calendar cases out of the way. We will start
2 with jury selection at about 10:00, 10:15.

3 MR. KEITH: Very well, Your Honor.

4 -----
5 SUPREME COURT OF THE STATE OF NEW YORK.
6 COUNTY OF NEW YORK PART-93

7 THE PEOPLE OF THE STATE OF NEW YORK

8 -against-

9 HEARING

10 EDWARD GREEN,

11 Defendant

12 September 9, 2008

13 B E F O R E: HONORABLE E. MCLAUGHLIN, JSC
14

15 (Appearances as previously mentioned.)
16 -----

17 THE CLERK: Recalling case on trial,
18 Edward Green.

19 THE COURT: This thing has to be tried.
20 There is the right to appeal, but is the sticking
21 point. Does that ring any bells or not anywhere
22 near what you're talking about?

23 MR. KEITH: It rings some bells. I think
24 the actual time numbers could be adjusted
25 slightly.

YVETTE PACHECO SENIOR COURT REPORTER

PROCEEDINGS

1 THE COURT: What about the right to
2 appeal thing? This is what struck me, struck
3 me --

4 MR. KEITH: It's my understanding that
5 the People's position is a recommended sentence of
6 eight years incarceration with no right to appeal;
7 is that correct?

8 MR. BERLAND: That is correct. The
9 defendant I'm sure is aware if convicted of the
10 A-1 faces a maximum of 24 years as a nonviolent
11 predicate felon.

12 THE COURT: Let's put that aside just for
13 a moment. I think I see the easy and obvious
14 solution to this. Since clearly the right to
15 appeal is the thing that Mr. Green is interested
16 in, and, indeed, I gather that's where he thinks
17 his hope lies, just an observation, what number
18 past two and a half years could possibly cause him
19 to worry? The final appeal would be over in two
20 and a half years.

21 What does he care whether it's 11 and a
22 half or 12 and 3 quarters? His hope is after two
23 and a half years in jail, the final appeal is
24 resolved in his favor and he'll walk out the door.
25 It doesn't matter to him whether the bottom line,

PROCEEDINGS

1 ultimate far out left to the number is 15, 22, 24,
2 11, he's going to get out from, his standpoint, as
3 soon as the appeal is decided.

4 My suggestion is the People want
5 something, he wants something, why don't we
6 say 11 years and the right to appeal?

7 MR. KEITH: Eleven years and no right to
8 appeal?

9 THE COURT: And the right to appeal.

10 MR. KEITH: I don't believe --

11 THE COURT: If that doesn't satisfy him,
12 then I don't follow his logic.

13 MR. KEITH: He knows he may have a chance
14 in appeal with regard to the standing issue, but
15 may also be denied in the appeal. Certainly, he
16 would like to resolve the case and minimize the
17 exposure and exercise the right to appeal.

18 In my discussions with Mr. Green, I don't
19 think he will agree to 11 years. We're thinking
20 more in the lines of 6 years or something like
21 that.

22 THE COURT: Well, the People, from their
23 standpoint, have to have something. They think
24 they're going to win.

25 MR. KEITH: Right. They're think they're

PROCEEDINGS

1 going to win and run the table and then he will
2 wind up in the twenties. He doesn't want to expose
3 himself to the twenties. He wants to do something
4 smart. I thought his thinking was he's going to
5 win on the appeal?

6 MR. KEITH: Of course.

7 THE COURT: Now, he might win on appeal
8 with regard to the suppression. It seemed to me
9 that 11 and a right to appeal would be something
10 that everybody gets. I'm interested in doing
11 Manning and McNair later on today, which is
12 another trial, I will do this one. We're going to
13 start in seven minutes. If you cannot work it
14 out, we'll have ourselves a trial in seven
15 minutes.

16 (Pause in proceedings.)

17 THE COURT: Ready for the jury?

18 MR. KEITH: Yes, Your Honor.

19 THE COURT: Bring the jury down, please.

20 MR. KEITH: Your Honor, another thing. I
21 haven't tried one with you in a while. I know you
22 fill up the box.

23 THE COURT: Twenty people.

24 MR. KEITH: In the box, though?

25 THE COURT: After I do my schmoozing and

PROCEEDINGS

1 my introductory legal recitation, yes. It will
2 take me about 21 minutes to inculcate them, and
3 then we call a panel and you get 15 minutes first
4 round, 10 minutes second round. Don't feel
5 compelled to use all the time.

6 With regard to the expert, you will be
7 picking up 14 smart people. I don't know that
8 they need an expert.

9 MR. KEITH: Thank you, Your Honor.

10 THE COURT: We haven't resolved this.
11 I'm leaning. I usually lean left and I am leaning
12 that way now. Assuming we got 14 intelligent
13 people, the witnesses who will be called have some
14 familiarity with narcotics and consequently
15 they're able to talk somewhat, other than being
16 denominated an expert, they are able to say the
17 hand-held digital scales or something else.

18 MR. BERLAND: Yes.

19 THE COURT: So the average Manhattan
20 dweller doesn't have one in the apartment, let
21 alone three or five. I bet that the average
22 citizen in Manhattan doesn't have any heat sealing
23 plastic devices, and you contend there are lots,
24 several?

25 MR. BERLAND: I believe eight.

PROCEEDINGS

1 THE COURT: And this isn't a restaurant.
2 And then thousands of plastic bags?

3 MR. BERLAND: Correct.

4 THE COURT: Immediately packaged
5 somewhere?

6 MR. BERLAND: Some neat, some loose, some
7 in garbage bags.

8 THE COURT: You do not need an expert.

9 MR. BERLAND: Can they discuss the
10 pricing of the narcotics recovered?

11 THE COURT: Yes, that's usual. It's
12 having somebody else come in to talk about things
13 that are not required to be contributed by an
14 expert, but left within the common sense of the
15 jury having been told something about the nature,
16 because paraphernalia requires some description of
17 what would ordinarily be a household item, so to
18 speak, which takes on that various purpose under
19 some circumstances.

20 You have a right to have a witness or the
21 two witnesses you intended to call describe what
22 converts a plastic bag, such as the one with my
23 peanut butter and jelly sandwich down in my
24 office, what converts a peanut butter and jelly
25 sandwich package into something that would be a

PROCEEDINGS

1 misdemeanor where you subject a person to a year
2 in jail.

3 MR. KEITH: Your Honor, another thing,
4 count two of the indictment as to my client --

5 THE COURT: What is count two?

6 MR. KEITH: The charge that Mr. Brown
7 plead guilty to.

8 THE COURT: Yes, this was the bench
9 discussion about whether there's a connection
10 between Mr. Green and the contents of count two.

11 MR. KEITH: Yes, Your Honor. The keys
12 have been suppressed.

13 THE COURT: Who did that? In the learned
14 times and the fair courts always sometimes
15 suppress lots of stuff.

16 MR. KEITH: Yes, Your Honor. Thank you
17 very much. I take what I can get.

18 THE COURT: That sometimes is a good
19 advice to other people involved in a court
20 process. Take what you can get. Anyway, you were
21 saying?

22 MR. KEITH: I hear you loud and clear.

23 THE COURT: Well, we go back a while.
24 Your client and I don't, but anyway, go ahead.

25 MR. KEITH: Your Honor, the second count

PROCEEDINGS

1 of the indictment, referring to the drugs that
2 were recovered from the second floor apartment,
3 those drugs D felony possession with intent to
4 sell, the connection between Mr. Green and that
5 apartment was primarily the keys recovered from
6 him. I believe a detective would have testified
7 that one or two of the keys that he had were keys
8 for that second floor apartment.

9 The other connection to the apartment I
10 think is somewhat tenuous and certainly to prove
11 constructive possession of the stuff recovered in
12 the second floor apartment, to prove dominion and
13 control beyond a reasonable doubt would be
14 impossible for the People. That charge should be
15 dismissed.

16 THE COURT: Your prediction may be
17 accurate, but I don't think there's any conviction
18 by which I can do that, other than by reserving to
19 see what a jury does because of the Brown case
20 which doesn't even address a motion at this
21 juncture but rather a motion at the end of the
22 case where the People would have no opportunity to
23 appeal if I were to say you're right, dismissed by
24 not giving them a way to see what a jury does.

25 What is the second connection other than

PROCEEDINGS

1 keys or do you have two, three or four
2 connections?

3 MR. BERLAND: I believe I have two, three
4 or four connections. There are two issues, with
5 all due respect, to Mr. Keith. Count two of the
6 indictment is possession with intent to sell, in
7 the A weight possession as to the drugs recovered
8 in the second floor apartment.

9 This defendant was in an apartment with
10 half a kilo of cocaine. We contend he possessed
11 with intent to sell. Count two applies to the
12 drugs in both apartments. It shouldn't be
13 dismissed for the grounds that Mr. Keith argues.

14 As far as the connection --

15 THE COURT: Suppose there were other
16 drugs under somebody else's control within the
17 building. Obviously, you cannot say because
18 somebody else had drugs in the building, somehow
19 that's drugs that he, Green, possessed also intent
20 to sell some or all of it. I don't think what you
21 said is compelling persuasion. Do you have some
22 other -- it is the connection.

23 MR. BERLAND: I am moving on to the
24 connection.

25 THE COURT: I was dismissing your first

PROCEEDINGS

1 effort.

2 MR. BERLAND: All I am saying count two
3 doesn't apply to the second apartment. It applies
4 to the drugs in the apartment where the defendant
5 was located.

6 As far as the connection --

7 THE COURT: Let's be clear about that.
8 You say, and at this juncture, they're not having
9 been litigation in the motion stage and a Bill of
10 Particulars specifying, et cetera, et cetera, you
11 say that he, Green, is charged with possession --
12 with intent to sell of what was found in the
13 second floor apartment?

14 MR. BERLAND: Yes, Your Honor, that's
15 what he's charged with among other drugs within
16 the building. Charged with possession with intent
17 to sell the half a kilo recovered in the fourth
18 apartment, not the second apartment.

19 THE COURT: What is he accused of doing
20 with respect to the second floor apartment?

21 MR. BERLAND: I will get to the
22 connection. I, obviously, am aware that the keys
23 were suppressed which allowed him into the second
24 floor; however, we do have the issue of the video
25 monitors.

PROCEEDINGS

1 A detective will testify that the
2 monitors went solely to the second floor apartment
3 where defendant Brown was located and the fourth
4 floor apartment where Mr. Green was located.

5 Additionally, there was numerous
6 paraphernalia, Ziploc bags to be exact, in cigar
7 boxes, red cigar Philly blunt boxes. Same boxes
8 recovered in the second floor apartment as were
9 recovered in the fourth floor apartment. There
10 were loose Ziploc bags stamped Red Apple found in
11 the second floor apartment and fourth floor
12 apartment.

13 THE COURT: With no residue in it?

14 MR. BERLAND: With no residue in it. The
15 bags packaged ready to be sold, the Ziploc bags in
16 the second floor apartment were sealed in the same
17 manner, cut the same size as the bags found in the
18 fourth floor apartment, which were packaged for
19 sale. In the safe, there were --

20 THE COURT: I don't need to hear any
21 more. There is no way in the world that a judge is
22 allowed to take that factual decision away from a
23 jury. So the application to dismiss at this
24 juncture is denied.

25 With regard to scheduling, we'll pick a

PROCEEDINGS

1 jury as much as we can and finish tomorrow. Some
2 point in the morning, you will start calling your
3 cases. You need Thursday morning or afternoon off?

4 MR. KEITH: Morning.

5 THE COURT: Just remind me. That's the
6 sort of thing that not only goes against my
7 nature, but will slip through my conscious and I
8 don't want to be responsible for baby-sitting 14
9 jurors on Thursday morning.

10 MR. BERLAND: Can he speak to his client
11 about the issue of the chemist?

12 THE COURT: Oh, yes. Are the
13 sandwich-type bag coin-type bags or Zips?

14 MR. BERLAND: Variety. Some small Zips,
15 some loose plastic bags which contain wraps, some
16 are kilo wrappers.

17 MR. KEITH: The kilo wrappers were in the
18 garbage.

19 MR. BERLAND: In the garbage but out in
20 the open.

21 MR. KEITH: What do you mean?

22 MR. BERLAND: A plastic bag hanging on
23 the wall open with tons of kilo wrappers inside.

24 THE COURT: Tons?

25 MR. BERLAND: Numerous. I apologize.

VOIR DIRE

1 MR. KEITH: From the review of the Grand
2 Jury minutes, there were two bags of garbage in
3 the closet.

4 THE COURT: In Sesame Street, from trash
5 to treasures. One person's trash is another
6 person's treasure. It depends on your perspective.
7 Whether garbage or unused packaging for drugs.

8 MR. KEITH: That's how it's characterized
9 in the Grand Jury minutes.

10 THE COURT: Well, Grand Jury
11 presentations are what they're. Whoever possessed
12 the things, I'm sure they didn't possess
13 non-narcotic items.

14 With regard to the stipulation regarding
15 the chemist.

16 MR. KEITH: We'll stipulate that the
17 white powdery substance is cocaine.

18 MR. BERLAND: I anticipate you will
19 mention to the jury that only one defendant is at
20 the table, although two men were arrested.

21 THE COURT: Summon the citizens, please.

22 COURT OFFICER: Jury entering.

23 MR. KEITH: Your Honor, may we approach
24 briefly?

25 THE COURT: Yes.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 (A discussion was held off the record.)

2 THE COURT: You are all here as possible
3 jurors. This is a Supreme Court criminal term. We
4 are about to begin selection that will decide a
5 criminal charge.

6 If you were on the jury before, listening
7 to the orientation, we do jury selection on
8 question and answer form. The lawyers and I have
9 questions for you, and for your participation in
10 that, we need to administer to you now either an
11 oath or affirmation.

12 Anybody prefer to affirm as opposed to
13 swear? Anybody have any idea what I am talking
14 about? Nobody is affirming. Please stand up and
15 take the oath.

16 THE CLERK: Raise your right hand.

17 (Prospective jurors comply.)

18 THE CLERK: Do you solemnly swear or
19 affirm that you will truthfully answer all
20 questions put to you relative to your
21 qualifications to serve as jurors in the case of
22 the People of the State of New York versus Edward
23 Green. Answer please.

24 PROSPECTIVE JURORS: Yes.

25 THE CLERK: Please be seated.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Did anybody say no? Good
2 start. In order to intelligently and honestly
3 answer questions, I need to tell you something in
4 outline form about the law that controls a
5 criminal case anywhere in the U.S.

6 You have to accept that the only person
7 in a criminal courtroom in the United States who
8 has to do anything or prove anything is the person
9 who represents the government, the prosecution.
10 Whether it's in a Federal Court in Maine or state
11 court in Hawaii, the only person who has to prove
12 anything is the person who represents the
13 government.

14 In some places, that's the state of Iowa,
15 refers to itself as the State, Pennsylvania, the
16 Commonwealth, of New York, Illinois and California
17 refer to the government as the People. The
18 government, the State, the People bring the
19 charge.

20 Under the system created, it is the
21 State, prosecution's obligation to prove the
22 charge. They have to meet a certain standard of
23 proof which you know is something called proof
24 beyond a reasonable doubt.

25 The accused who does not want to be in

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 the courtroom or in any other defendant doesn't
2 want to be a courtroom, they're presumed innocent.
3 If you are presumed innocent, what left is there
4 for to you do? You're presumed innocent. That's
5 the starting point. So you do not have to prove
6 anything.

7 To demonstrate that, put some flesh on
8 it, to particularize it, an accused in his or her
9 own trial, does not have to testify, the lawyer
10 doesn't have to ask questions of the witness, they
11 do not have to call witnesses. They can literally
12 look over at the prosecution's table and say, You
13 brought the charges prove them if you can.

14 For there to be a resolution, a decision,
15 the jury has to agree as to the charge as you go
16 through the verdict sheet. If there is more than
17 one charge, the jury doesn't make a decision about
18 a charge until all the voting jurors are in
19 agreement that the charge has or has not been
20 established, proven.

21 I have nothing to do with that. You've
22 created a jury system. Some relatively
23 sophisticated places around the globe don't have
24 jury trials. They have a judge or three judges or
25 judge surrounded by military officers. I guess to

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 make sure the judge gets it right, some places,
2 they just shoot you.

3 We have a jury trial system which brings
4 you here because you have said and I'm in full
5 agreement with it that I can't decide this.

6 I'm here every working day and many
7 non-working days, happily, competently, but we all
8 have said better to have, let's try that without
9 the word people, but better to have the
10 rig-of-the-mill citizens decide the cases rather
11 than somebody with a black robe who got it, who
12 knows how, who has seen it all being done. So
13 that's why you're here and that is, of course, why
14 you cannot leave.

15 Once there is a charge, and a request for
16 a trial, you just heard me say it doesn't go away
17 until you folks decide it. Once there is an
18 indictment and a request for a trial, no judge,
19 even one who has been here for over 25 years, if
20 you believe that, no judge can look at the
21 prosecution and say, You know, I'm fed up with
22 this, dismiss it. No judge can look at the
23 accused and say, I'm fed up, plead guilty.

24 As we all know, once an indictment and
25 request for a trial, there has to be a trial.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Everything stays as it was on the day of the
2 arrest.

3 Understand, there probably isn't one
4 prospective juror here who doesn't think your time
5 can be better used someplace else doing anything
6 else. I also don't think any one of you upon any
7 amount of reflection would want this decision or
8 other decisions made down in the courthouse made
9 by people who had nowhere better to be. I can't
10 go to institutions and get jurors. You are it.
11 You're it.

12 This is the user-friendly New York State
13 court system. You folks have a benefit that
14 virtually no state accords, gives to its citizen
15 jurors and that is a one-time
16 get-out-of-jury-service free. You've either taken
17 it or you haven't. So you are here to serve in
18 this case.

19 Longest trial I did as a judge was four
20 and a half months. Four and a half months. The
21 longest trial you know about took 13 months. There
22 is no special list of losers to serve on cases
23 that take more than a couple days. Imagine that
24 you signed up for National Guard unit to get
25 commodity, extra pay, instead you get your arms

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 blown off, eat sand, don't get a shower for weeks.
2 You want to talk about a hardship. Tens of
3 thousands of people lying dead in military
4 cemeteries who would like to serve on the case,
5 but they can't.

6 Anybody have religious, moral or ethical
7 beliefs in judging another human being; anybody
8 think only God can do that and we cannot judge a
9 humankind?

10 My job is to explain what the law is.
11 Your function is to decide the case. The way you
12 do that is to make accuracy and credibility
13 judgments about witnesses. You will decide who to
14 believe, if anybody, what extent to believe them,
15 then decide what facts you are going to use to
16 make your decision. My job is to explain the law.
17 Put your assessment of the facts, of the
18 testimony, together with the law, and you decide
19 whether it's proven or not proven.

20 In making these assessments, judgments on
21 the accuracy and credibility of witnesses, you do
22 that in the same way you do in your own lives.
23 You've survived in New York whether for seven
24 months or 70 years.

25 Every week, month, somebody whom you do

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 not know under a variety of circumstances starts
2 to talk to you. When you realize they want you to
3 do something, this stranger with whom you have no
4 history, you do two things, automatically as New
5 Yorkers, without my standing around saying let me
6 tell you how to figure this out, you judge, you
7 assess both the person talking to you and the
8 content of what they're saying without my having
9 to be there. You decide whether or not what the
10 person is saying makes sense.

11 Does it fit in with life in New York as
12 you know it exists?

13 Does what the person says to you here
14 from the witness stand, does it sound like that
15 person actually lived through an event or does it
16 sound like the person is trying desperately to say
17 what they were told to say?

18 Does it have a naturalness or artificial
19 sense about it? Is it fantasy, is it fact? Your
20 decision.

21 Is it fact or contradicted by something
22 else?

23 What's your comfort level with the
24 witness as he or she is talking to you?

25 What's in it for them?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 The stranger talking to you what do they
2 want from you or what do they get out of it if
3 they convince to you do it? Those are the
4 judgments you make, and those are the same
5 judgments you make here.

6 In this case you will see and hear police
7 testimony. It's difficult to have a criminal trial
8 without police officers testifying. Sure you can
9 have a little lady bopped on the head, bleed a lot
10 and have a trial with just a little old lady and
11 the doctor and may be a Good Samaritan or two.
12 Usually, you have New York City police officers
13 testify or state troopers.

14 This is a case where the New York City
15 Police Department will be the witnesses. What does
16 that mean? I have to tell you. Well, not much,
17 except what the law is. The law says you can't
18 believe or disbelieve somebody because of their
19 occupation. If you have had a bad experience with
20 a plumber, you can't discount every plumber's
21 testimony. The law says you can't believe or
22 disbelieve a person because of their occupation,
23 that applies to police officers.

24 You know that some police officers get
25 up, go to work, shot, killed and go directly to

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 heaven. Some go to work, commit crimes and wind up
2 in state prison. There are about 39,200 people
3 somewhere had the middle. Are they heroes here or
4 normal civilians, just folks.

5 We have this rule on your behalf because
6 you are responsible for the law that says
7 essentially the Eleventh Commandment, thou shall
8 not stereotype. If you do not like being judged
9 before anybody evaluates you, do not do it in the
10 courtroom, for heaven's sake. We are looking for
11 people who will listen and make up their mind. Not
12 make up their mind as soon as they see a person or
13 listen to a situation.

14 If you didn't get the apartment, didn't
15 get a loan, get a promotion, this or that and you
16 realize the reason you didn't get it was because
17 the decision was made before merits were
18 evaluated, you were stereotyped. Think about how
19 sick you were when you discovered that happened.
20 That's the reason why New York says thou shall not
21 stereotype.

22 I generally don't care. I get paid the
23 same salary since 1999, I get the same salary,
24 whether you find guilt or non-guilt, whether you
25 believe or disbelieve a police officer, I don't

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 care. My job is to make sure you follow the law,
2 which is judge after, not before.

3 Sentencing. Somebody out there could be
4 saying, sentencing, oh my heavens, start sweating
5 perspiring, having cramps. In order to remove
6 that consideration from you, you and your wisdom
7 have said with regard to what might happen in the
8 future, you cannot be concerned with that. You
9 can't, because it's both legally and logically
10 irrelevant what might happen if there is a
11 conviction. You can't worry about what might
12 happen. You're here to decide whether a past
13 event happened, whether the prosecution in this
14 present trial can prove it to have happened.

15 If there is a sentence to be imposed, you
16 have nothing whatever to do with it. That's the
17 law you have created. I would be the one to do
18 sentencing. I probably am the only one, apart
19 from your children, if you have children or had
20 them. I'm the only one in the room who has ever
21 imposed a sentence. If I have to impose a
22 sentence here, I will know more about the person
23 to be sentenced than any other human being on the
24 globe. You can't worry about sentencing. It is
25 not your job. You look back rather than forward.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Mr. Garber, hello.

2 Who knows Robert Morgenthau, personal
3 friends, personal acquaintance, hangs or chills
4 with Bob, brunches with Bob, picks apples with
5 Bob?

6 I expected as much. For 25 years, 25
7 to 27 times a year, I've asked the question and
8 the answer is virtually identical repetition of
9 what just happened, stunned silence, that anybody
10 would have an interpersonal relationship with the
11 elected district attorney of Manhattan who appears
12 to be a recluse and social failure.

13 As Hal Brenner used to say, wonder
14 amount. Continual confabulation. I cannot
15 understand it, especially since it is routinely
16 since the 1800 he's elected every four years.
17 He's never been here in the 25 plus years I have
18 been here. He is, however, represented by an
19 assistant DA named Jason Berland.

20 Stand up and see if anybody knows you.

21 MR. BERLAND: Good morning.

22 THE COURT: Must be one of the job's
23 criteria.

24 Next thing might strike you as odd, too.
25 I hope it will because it's memorable. You can't

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 be a defendant in a New York State Supreme Court
2 by volunteering. We don't take volunteers. Two
3 things have to happen before you can get to be a
4 defendant in a New York State Supreme Court and be
5 on trial. You have to be indicted and arrested.

6 So everybody, those found not guilty by
7 the jury, as well as those found guilty by the
8 jury started the process by an arrest and an
9 indictment, and so intelligent folks like
10 yourselves and I can perceive intelligence among
11 all of you.

12 Intelligent people trying to figure out
13 the correct result here will not pause a
14 nanosecond trying to figure out what the effect of
15 the arrest and indictment are on the verdict
16 because you just heard me say whether you will be
17 acquitted or found guilty, you started off the
18 same way. Your focus is not what happened with
19 the arrest and indictment, it's what happens from
20 the witness stand.

21 I will introduce the person accused here.
22 The person's name is Edward Green. This is the
23 plexiwheel you heard about since children.

24 Mr. Green, stand up and see if anybody
25 knows you. This is Edward Green. Anybody think

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 they know or have seen or heard of Edward Green?

2 THE DEFENDANT: Good morning.

3 THE COURT: Have a seat. He's
4 represented by Arnold Keith. Does anybody know
5 Mr. Keith?

6 MR. KEITH: Good morning, everyone.

7 THE COURT: We're about to call 20
8 people, put you in the box and ask you questions.
9 There is a trait found among some New Yorkers that
10 I need to address. First thing I want to say is
11 how many people here are in favor of crime? You
12 are under oath. Nobody here is in favor of crime?
13 All right.

14 Let's say, now that I probably have your
15 attention, right now in the United States there
16 are 30,000 criminal trials. Let's say there are
17 12 jurors per trial, 360,000 jurors right now in
18 Hawaii and Maine, and how many of them do you
19 think are in favor of crime? None.

20 So pendulumly speaking, what does that
21 mean about the relationship about not liking crime
22 and being a fair juror? They blend together
23 easily. They're not mutually exclusive. You can
24 be opposed to crime, indeed you can be violently
25 opposed to crime and serve fairly on a jury where

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 a crime is charged provided you meet the common
2 sense U.S. standard, which is what? As best as is
3 humanly possible, given the nature of the charge,
4 you set aside the emotional components, the
5 emotional reaction that tend to that crime and
6 trial.

7 So in a rape of a four-year old girl, I
8 don't have to find 12 people in favor of raping
9 children. I just have to find 12 people who, when
10 they get agitated, will recognize the agitation
11 for what it is. Not being proof, they will say,
12 all right, I am a human being, that's affecting
13 me, so I'm, as best as is humanly possible,
14 discounting that, setting it aside and refocusing
15 on my original evaluation of what the proof is or
16 absence of proof.

17 So here we have a drug charge. Mr. Green
18 is accused of possessing what you will hear is
19 over half a kilogram of drugs and we're having a
20 trial. New York has a definition of possession,
21 which I'll explain at the appropriate time, and
22 you need to decide whether the prosecution can
23 prove the elements of the crimes with which
24 Mr. Green is charged. That's it. The republic,
25 the government, your standard of living will not

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 be affected whether you find him guilty or not
2 guilty. I can't do it.

3 I don't know what kinds of lengthy or
4 short trials are happening on this floor and the
5 floors above and below us or 60 Centre or 111
6 Centre Street or down at 49 Thomas Street. I
7 can't tell you where you will go if you are
8 excused at this trial. I don't know and I will
9 purposely remain ignorant. If there is a trial
10 across the street down the corridor that will take
11 two weeks, four weeks, four months, I don't know.
12 I purposely remain ignorant.

13 I will put you folks in a position to
14 decide the case, either next Monday or next
15 Tuesday. However long you decide your
16 deliberations take is up to you. I expect, having
17 consulted with the lawyers, to put you in a
18 position to decide the case next Monday or
19 Tuesday, and I emphasize I don't know what's
20 happening in other buildings where you will be
21 sent if not selected here.

22 Now, some people say, Judge, you just
23 said that you will put us in a position to decide
24 the case next Monday or Tuesday, yet asking us
25 today and perhaps some of tomorrow morning, can we

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 be fair. Can't you ask us next Monday or next
2 Tuesday? The answer is no. Today is the day
3 we're picking the jury. So you need to say it.
4 This is something I'm fair about or not fair about
5 it.

6 We'll call 20 people. This doesn't
7 guarantee you will be selected. Do not panic if
8 your name is among the first 20. Many, many
9 people will be called. As I said, not everybody
10 called will be chosen. Gather your gear, take the
11 questionnaire and prepare your answers.

12 Go ahead.

13 THE CLERK: Seat number one,
14 Wendy Shrijver. Seat number two, Phyllis Wein.
15 Shanera Stuart, seat number three.
16 Timothy Carvin, seat number four. Robert Cole,
17 seat number five. Kathleen Mitchell, seat number
18 six. Megan Stubbendeck, seat number seven.
19 Manuel Salgado, Seat number eight. Melissa Pinker,
20 seat number nine. Caroline Wicker, seat number
21 ten. Stacy Sullivan, seat number 11. David
22 Riley, seat number 12. Michael Wagner, seat
23 number 13. Gerforne Johnson, seat number 14.
24 Qubell Haile, seat number 15. Omar Perez, seat
25 number 16. David Daniels, seat number 17.

YVETTE PACHECO SENIOR COURT REPORTER

—VOIR DIRE—

1 Bienvenido Caba, seat number 18. James Wysock,
2 seat number 19. Rafael Taveras, seat number 20.

3 Those who names are yet to be called,
4 don't have the questionnaire, and the last
5 question says, Given what you heard so far, can
6 you be fair and follow the law?

7 I made reference to 30,000 trials and
8 probably a lot more than that going on and then
9 30,000 plus ways of doing jury selection. The
10 point of any judge's jury selection is to find
11 people who can answer that question. Yes, I can
12 be fair.

13 We tell you a little bit about what
14 supposedly occurred. I forgot the address of the
15 building.

16 MR. BERLAND: 451 Lenox Avenue.

17 THE COURT: 451 Lenox Avenue. Do you
18 remember what the cross streets are?

19 MR. BERLAND: Between 132nd and 133rd
20 Streets.

21 THE COURT: Okay, that's the place.
22 You've heard what the allegation is. We have this
23 questionnaire. I'm going to tell you how you
24 would answer the questions.

25 Questions two and three make a reference

—YVETTE PACHECO SENIOR COURT REPORTER—

VOIR DIRE

1 to New York City. What I'd like, if you can do it
2 is give me one answer. What I mean by that, if
3 you have a relative in the five boroughs, I don't
4 want you to go borough by borough, just say
5 about 15 relatives in the City of New York that
6 includes all five boroughs or here by myself or
7 whatever it is. I have over hundred people, I
8 lost count at 55.

9 Question five asks are you working.
10 Don't just say no or yes. The lawyers and
11 Mr. Green need to know something about you. I do
12 not want to know where you work, but for example
13 if you work in a store, say retail store, manager,
14 cashier. I work in a bank, loan officer, computer
15 person. You do not have to say I'm a geek. Just
16 what kind of work do you do.

17 If you are in school, what is it that you
18 are studying. Do you have a major. If you are
19 retired, what did you do before you retired. If,
20 unfortunately, you recently were laid off, quit or
21 fired, I need to know what your job experience
22 was.

23 I need to know your neighborhood, Battery
24 Park City, Harlem, Murray Hill. With regard to
25 132nd Street, I'm going to ask you whether you

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 live within three blocks in a circle, below blocks
2 around Lenox and 132nd. If you do it, it doesn't
3 disqualify you, just something Mr. Green and the
4 lawyers and I need to know.

5 There is a last question I ask, which is
6 not on the questionnaire and it is the following.
7 Essentially, anything that is not on the
8 questionnaire or about which we have not asked you
9 with affects your ability to decide the case. You
10 need to answer that question.

11 We start with Ms. Shrijver, start with
12 you and go down the road to Mr. Salgado, back to
13 Mr. Perez, move down to Ms. Pinker and the two
14 folks on the side and two folks in the front.
15 There it is, the hand-held microphone.

16 Go ahead.

17 PROSPECTIVE JUROR: My name is Wendy
18 Shrijver. I live on the Upper East Side in
19 Yorkville. I live there for two years. I'm not a
20 New Yorker.

21 MR. KEITH: We lost the sign.

22 THE COURT: You were or were not born in
23 New York.

24 PROSPECTIVE JUROR: I was not born in New
25 York. I was born in Connecticut.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Maybe if you hit it against
2 your head? No, that's not good. Could somebody
3 help her?

4 PROSPECTIVE JUROR: I work as a portrait
5 painter. That involves painting every day. It's
6 a free-lance job. I have a graduate degree. I
7 have been married. I have two children.

8 THE COURT: Do either live at home with
9 you?

10 PROSPECTIVE JUROR: Part of the time.

11 THE COURT: When they were younger, did
12 you speak with either or both about drugs?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Continue.

15 PROSPECTIVE JUROR: I served on a
16 criminal case that was settled.

17 THE COURT: You did not have to decide
18 it?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Were there any criminal or
21 civil cases that you made a verdict?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Continue.

24 PROSPECTIVE JUROR: I have had a close
25 friend who was the victim of a crime.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: What happened to that person?

2 PROSPECTIVE JUROR: She was raped.

3 THE COURT: By somebody whom she knew or
4 did not know?

5 PROSPECTIVE JUROR: Did not know.

6 THE COURT: Did she report it?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Was it in New York State?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Continue.

11 PROSPECTIVE JUROR: I don't have any
12 relatives who are A or B.

13 THE COURT: In law enforcement?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Continue.

16 PROSPECTIVE JUROR: No.

17 THE COURT: No to what?

18 PROSPECTIVE JUROR: Number ten.

19 THE COURT: They want to know what number
20 ten is.

21 PROSPECTIVE JUROR: Family members or
22 close friends in conflict with the law. No.

23 THE COURT: Actually, I think that's the
24 victim of a crime.

25 PROSPECTIVE JUROR: Oh, yes, okay.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Right. Close friend being victim of a crime.

2 THE COURT: Twenty-five years, I should
3 know these questions. Go ahead.

4 PROSPECTIVE JUROR: No, I don't have any
5 moral or religious beliefs or opinions that might
6 conflict with the rules of law controlling
7 criminal cases.

8 THE COURT: There is no reason you
9 couldn't be fair and follow the law?

10 PROSPECTIVE JUROR: No.

11 THE COURT: You told us the neighborhood.
12 Anything which isn't on the questionnaire or I
13 didn't ask you which affects your ability to
14 decide the case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Go ahead, Ms. Wein.

17 PROSPECTIVE JUROR: My name is Phyllis
18 Wein. I live in the Upper West Side for 39 years.

19 MR. KEITH: Upper West or East?

20 PROSPECTIVE JUROR: Upper West.

21 THE COURT: Does it make a difference?

22 MR. KEITH: Yes.

23 PROSPECTIVE JUROR: I'm retired. Prior
24 to retiring, I helped my husband in his business,
25 a mail order business. I graduated from college. I

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 have two children.

2 THE COURT: Did you speak with them about
3 drugs?

4 PROSPECTIVE JUROR: Yes, I did.

5 THE COURT: Did they listen?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Good.

8 PROSPECTIVE JUROR: I have never served
9 on a criminal case. Fortunately, I don't have a
10 close friend or relative who has been a victim of
11 a crime. No, I do not have any relatives who are
12 attorneys or in law enforcement. No, I don't have
13 any family who has been in conflict with the law.

14 THE COURT: Actually, that says victim of
15 a crime.

16 PROSPECTIVE JUROR: No conflict.

17 THE COURT: I apologize. Periodically,
18 they do give us a vacation. Periodically, then,
19 somebody else sneaks in here and uses the
20 courtroom. I'm wondering whether we get a
21 different jury questionnaire. In any event, I will
22 keep my mouth shut and you will answer the
23 question.

24 MR. KEITH: On that issue, may we
25 approach.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Sure.

2 (A discussion was held off the record.)

3 THE COURT: There is somebody named Louis
4 Bart Stone, but he ain't me. I don't use the word
5 "conflict." Anyway, we'll use his.

6 MR. KEITH: Sorry, Your Honor, one other
7 thing.

8 THE COURT: So am I. Mine certainly is
9 better.

10 (A discussion was held off the record.)

11 THE COURT: Forget about the
12 questionnaire. I want them back. Give the
13 questionnaires back. It must be that Judge Stone
14 doesn't plan on doing any more trials in his
15 career. What are his questionnaires here for?

16 So, Ms. Wein, people who said conflict, I
17 apologize. What neighborhood do you live in?

18 PROSPECTIVE JUROR: Upper West Side.

19 THE COURT: Any of the children at home
20 with you these days?

21 PROSPECTIVE JUROR: No. I'm a
22 grandmother.

23 THE COURT: Anything you need to tell us
24 about your ability to decide the case that isn't
25 on that now-discarded questionnaire?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 THE COURT: We'll go to Ms. Stuart.

3 Go ahead.

4 PROSPECTIVE JUROR: I was born in Harlem,
5 Harlem Hospital. I have lived in New York all of
6 my life. All of my relatives --

7 THE COURT: Since I haven't had the
8 pleasure of meeting your relatives, is that 15,
9 20? How many, roughly?

10 PROSPECTIVE JUROR: Roughly around 50.

11 THE COURT: Continue.

12 PROSPECTIVE JUROR: All of the relatives
13 that I know of live in New York City. I am not
14 married. I am working.

15 THE COURT: Doing what?

16 PROSPECTIVE JUROR: In a coffee company,
17 retail.

18 THE COURT: How long have you been there?

19 PROSPECTIVE JUROR: For two years.

20 THE COURT: Continue.

21 PROSPECTIVE JUROR: I do not have any
22 children. I am in my last year of School for
23 Culinary Arts. I have never served on a criminal
24 or civil jury. I have never served on a Grand
25 Jury. I've never served in the military. None of

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 my relatives or close friends have been employed
2 by any law enforcement. I've had two relatives
3 convicted of a crime.

4 THE COURT: I'm going to ask everybody
5 when I'm finished whether relatives or yourselves
6 accused, victim of a crime. It happens. I will put
7 that off until I finish the questions.

8 Go ahead, please.

9 PROSPECTIVE JUROR: I have never been a
10 party to a civil lawsuit, but I have been in court
11 for other reasons.

12 THE COURT: What sort of things brought
13 you to court? Family Court?

14 PROSPECTIVE JUROR: For the relatives.

15 THE COURT: You went to their trials.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: I will ask you about that
18 later. Continue, please.

19 PROSPECTIVE JUROR: Yes, I will follow
20 the laws as the Court instructs. I will be fair.

21 THE COURT: Your neighborhood is what? I
22 don't want your address. I'm not coming over or
23 sending you a card. I want the general area in
24 which you live.

25 PROSPECTIVE JUROR: Harlem.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Within three blocks of Lenox
2 and 132nd?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Does that bother you?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Anything else I need to know?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Mr. Carvin.

9 PROSPECTIVE JUROR: I was born in
10 Massachusetts. I've lived in New York City for
11 eight years. I have relatives in New York City.
12 I'm not married, but I've lived with a girl for
13 five years.

14 THE COURT: How is it working out?

15 PROSPECTIVE JUROR: I am working, an
16 insurance broker. I don't have any children. I
17 have a college education. I have never served on
18 a criminal or civil jury, nor a Grand Jury. I've
19 never served in the military. I have no close
20 friends or relatives employed by law enforcement
21 agency. Neither myself or close friend a victim
22 of a crime. I've never been a party to a civil
23 lawsuit or been in court for any reason. I could
24 certainly be fair and impartial and follow the
25 law. I live in Gramercy.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: You sound unsure about that?
2 Are you sure you live in Gramercy?

3 PROSPECTIVE JUROR: I am certain.

4 THE COURT: Say it, I live in Gramercy.

5 PROSPECTIVE JUROR: I live in Gramercy.

6 THE COURT: Anything else I should know?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Mr. Cole.

9 PROSPECTIVE JUROR: Robert Cole. I was
10 born in New York. I've lived in New York City for
11 five years. I have no other relatives that live
12 in New York City. I'm married. I'm a consultant.

13 THE COURT: What kind of business or
14 field?

15 PROSPECTIVE JUROR: Political action
16 committee. My spouse works for Estee Lauder. No
17 children. I'm college educated. I have never
18 served on a civil or criminal jury or Grand Jury.
19 Never served in the military. I do not have a
20 close friend or relative that have been employed
21 by the FBI or close friend or relative that's been
22 a victim of a crime. I have no not been a party
23 to a civil lawsuit. I can be fair and impartial.
24 I live in the Upper East Side.

25 THE COURT: Anything else we should know?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 THE COURT: Miss Mitchell.

3 PROSPECTIVE JUROR: Hello.

4 THE COURT: Hi.

5 PROSPECTIVE JUROR: I was born in
6 Worcester, New York. I've lived in the city five
7 years. I have about 20 relatives that live in New
8 York City. I'm married. I work at Discovery
9 Channel. My spouse, at CVS. No children. College
10 education. Never served on a criminal or civil or
11 Grand Jury or military. I'm have close friends
12 employed by law enforcement agencies.

13 THE COURT: What kind of --

14 PROSPECTIVE JUROR: Police officers in
15 Worcester, New York.

16 THE COURT: I don't mind speaking fast.
17 Keep going.

18 PROSPECTIVE JUROR: I have close
19 relatives and friends that have been victims of a
20 crime.

21 THE COURT: What happened to your
22 relative?

23 PROSPECTIVE JUROR: Both were muggings in
24 Maryland.

25 THE COURT: Any serious injury,

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 hospitalization, stitches?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Something serious to happen
4 to one of your friends or one of your relatives?

5 PROSPECTIVE JUROR: Just a little shaken
6 up. I have never been party to a civil lawsuit. I
7 believe being be fair and impartial. I live in
8 the financial district.

9 THE COURT: Anything else?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Ms. Stubbendeck.

12 PROSPECTIVE JUROR: I was born in
13 Nebraska. I've lived in New York for one year.

14 THE COURT: Where do you come most
15 directly, from Nebraska or someplace else?

16 PROSPECTIVE JUROR: Recently from the
17 University of Virginia. I am not married. I work
18 as a tutor and instructor development.

19 THE COURT: What subject do you tutor in?

20 PROSPECTIVE JUROR: American history and
21 SATs. I have no children. My educational
22 background, finished my dissertation for Ph.D. in
23 American history. My dissertation in the history
24 of urban gangs.

25 THE COURT: You never know what might be

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 interesting to the attorney.

2 PROSPECTIVE JUROR: I assume that might
3 be interesting. I have never served on a civil or
4 criminal jury nor Grand Jury. I have never served
5 in the military.

6 THE COURT: Did you ever join a gang?

7 PROSPECTIVE JUROR: No, I have not been a
8 member of a gang. I have been a victim of a crime.

9 THE COURT: What happened to you?

10 PROSPECTIVE JUROR: I was raped.

11 THE COURT: By somebody you knew or did
12 not know?

13 PROSPECTIVE JUROR: Somebody I did know.

14 THE COURT: Nebraska or somewhere else?

15 PROSPECTIVE JUROR: Somewhere else.

16 THE COURT: Did you report it to the
17 police?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Continue. I don't know
20 what's wrong with the microphone.

21 PROSPECTIVE JUROR: I've never been a
22 party to a civil lawsuit or in court for any
23 reason. Given what I heard so far, I could be fair
24 and impartial and follow the law. Upper West
25 Side.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Anything else?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Mr. Salgado.

4 PROSPECTIVE JUROR: Good morning. I was
5 born in New York City. I lived in New York
6 City 60 years. I have 15 relatives in the city.
7 I'm not married. I'm working respiratory in a
8 hospital. My girlfriend's occupation is a child
9 care provider. I have three children. My education
10 is high school graduate. I've never served in a
11 civil or criminal jury or Grand Jury. I was in
12 the military, in the army.

13 THE COURT: What period of time?

14 PROSPECTIVE JUROR: '67 through '70.

15 THE COURT: Your specialty was what?

16 PROSPECTIVE JUROR: Grunt.

17 THE COURT: Did you serve overseas?

18 PROSPECTIVE JUROR: Vietnam. I have a
19 nephew that just recently retired from the
20 Correction Department.

21 THE COURT: City or state?

22 PROSPECTIVE JUROR: City. I have no
23 friends or relatives that have been a victim to a
24 crime. I've never been in a civil lawsuit. I can
25 be fair and impartial, but Your Honor, I think

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 there's something I would see you in private
2 about.

3 THE COURT: Private has its unique
4 meaning. You me and the lawyers. Come over here.

5 (Whereupon, a sidebar conference was held
6 on the record out of the hearing of the jury.)

7 THE COURT: What would you like to say?

8 PROSPECTIVE JUROR: My son was convicted
9 of drug trafficking. He did ten years in jail.

10 THE COURT: Is he still incarcerated?

11 PROSPECTIVE JUROR: No. He's currently
12 out on parole or probation.

13 THE COURT: Can you be fair here or not?

14 PROSPECTIVE JUROR: I don't think so. It
15 kind of created a big problem between me and him,
16 the relationship.

17 THE COURT: I'll excuse you.

18 (Whereupon, the sidebar conference
19 concluded and the proceedings continued in open court
20 as follows:)

21 THE COURT: We'll excuse him. Fill seat
22 number eight, Mr. Salgado's seat.

23 THE CLERK: Ms. Hall.

24 PROSPECTIVE JUROR: I was born in the
25 mountains of Virginia.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: East Virginia or West
2 Virginia?

3 PROSPECTIVE JUROR: Western Virginia.
4 I've lived in New York City for five years. I
5 have no relatives who live in New York. I'm not
6 married. I'm working. I'm self-employed.

7 THE COURT: Doing what?

8 PROSPECTIVE JUROR: I run a business that
9 does VIP and specialty services. I don't have a
10 spouse. I have no children. I graduated from the
11 University of Virginia. Never served in a civil
12 or criminal jury, nor Grand Jury, nor the
13 military. I don't have any close friends or
14 relatives employed by law enforcement. Never had
15 a friend or relative a victim of a crime. Never
16 been party to a civil lawsuit or in court for any
17 other reason. I can be fair and impartial. I live
18 in Hells Kitchen.

19 THE COURT: Anything else?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: Thank you.

22 Mr. Perez. Thank you. Mr. Perez.

23 PROSPECTIVE JUROR: My name is Omar
24 Perez. I was born in New York City. I've been
25 living in New York for 41 years. I have about ten

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 relatives. I am not married. I am working in a
2 hospital as a mechanic. I have a daughter.

3 THE COURT: Is she at home with you?

4 PROSPECTIVE JUROR: No, she's not.

5 THE COURT: Is she old enough to be
6 spoken to about drugs?

7 PROSPECTIVE JUROR: She's only five years
8 old. Not at that concept yet. My educational
9 background is some engineering and some trade
10 schools. I have served on two civil cases, 60
11 Centre Street.

12 THE COURT: Did you decide both civil
13 cases or settled?

14 PROSPECTIVE JUROR: We came to the end.

15 THE COURT: Please forget anything you
16 remember of what the judge said because the rules
17 in civil are different from the rules here. I
18 will tell you anything you need to know.

19 PROSPECTIVE JUROR: Okay. I have never
20 served in the military. I have two friends
21 employed by the New York City Police Department.

22 THE COURT: Blue uniforms or
23 plainclothes?

24 PROSPECTIVE JUROR: One that wears a blue
25 uniform and another one that's a detective.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: What kind of detective work
2 does that fellow or woman do?

3 PROSPECTIVE JUROR: I don't get into too
4 much detail because sometimes he is on special
5 assignments.

6 THE COURT: Do you have any idea whether
7 it relates to organized crime, violation, sex
8 crimes?

9 PROSPECTIVE JUROR: At the beginning of
10 his career, he had some encounters with criminals
11 and stuff like that, but I haven't gotten one into
12 details the past couple of months.

13 THE COURT: Fine. Continue.

14 PROSPECTIVE JUROR: Never a party to a
15 lawsuit or in court for any other reason.

16 THE COURT: Can you be fair and will you
17 follow the law?

18 PROSPECTIVE JUROR: Yes. I live in Inwood
19 area.

20 THE COURT: Anything else?

21 PROSPECTIVE JUROR: Nothing else.

22 THE COURT: Mr. Haile.

23 PROSPECTIVE JUROR: I was born in New
24 York. I have been living here for 22 years. I
25 have four relatives that live in the city. I am

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 not married. I currently work in a hospital.

2 THE COURT: How long have you been there?

3 PROSPECTIVE JUROR: A month.

4 THE COURT: What do you do there?

5 PROSPECTIVE JUROR: A unit clerk, ICU.

6 THE COURT: Did you work before a month
7 ago?

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: What kind of work did you do
10 there?

11 PROSPECTIVE JUROR: Same thing.

12 THE COURT: Different hospital?

13 PROSPECTIVE JUROR: Yeah. No children, I
14 have some college background. I never served in a
15 civil or criminal jury. Never in the Grand Jury.
16 Never was in the military. I have no close
17 relatives or friends that are in law enforcement.
18 No friends victim of crime or relative. Never a
19 party to a civil suit. Yes, I can follow the law
20 and the Court's instruction. I live in the Upper
21 West Side.

22 THE COURT: Anything else?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Next is Ms. Johnson.

25 PROSPECTIVE JUROR: I was born in North

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Carolina. I lived in New York City for 40 years.

2 THE COURT: No way.

3 PROSPECTIVE JUROR: Thank you, Judge.

4 THE COURT: I said it was the
5 user-friendly New York State Court system.

6 PROSPECTIVE JUROR: I have about 20
7 relatives here. I'm separated. I'm retired. I
8 worked from a communications company. My husband
9 worked for a park service. I have children.
10 They're grown.

11 THE COURT: Did you speak with your
12 children as they were growing up about drugs?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Continue, please.

15 PROSPECTIVE JUROR: I'm currently in
16 school to complete my Bachelor's. I never served
17 on a civil or Criminal Court, a jury, nor a Grand
18 Jury, nor military. I did have a cousin who
19 recently retired from the police department.

20 THE COURT: Do you know what the person's
21 last job was within the police department?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Any idea what the person did
24 as a police officer towards the end of his or her
25 career?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: I think she was
2 mainly in the office. I have friends that were
3 employed or currently employed as COs. Thank God
4 we never had a relative or friend a victim of a
5 crime. Never been a party to a civil lawsuit.
6 Yes, I can be fair and impartial, and I live Upper
7 West Side.

8 THE COURT: Correction officer.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: City or state?

11 PROSPECTIVE JUROR: City.

12 THE COURT: Anything else?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Mr. Wagner.

15 PROSPECTIVE JUROR: I was born in Bayonne.
16 Lived in New York City on and off for about six or
17 seven years. I have one aunt who lives in
18 Manhattan. I am not married. I have a fiance. I
19 am working, self-employed doing website design and
20 maintenance. My fiance's occupation is graphic
21 design. We have a six-month-old son. I have a
22 graduate degree. Never served on criminal or
23 civil jury, Grand Jury or military. No close
24 friends or relatives employed by law enforcement
25 nor a victim of a crime. Never been a party to a

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 civil lawsuit. I can follow law. I will be fair
2 and impartial, and I live in midtown, Hells
3 Kitchen.

4 THE COURT: Anything else?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Mr. Riley.

7 PROSPECTIVE JUROR: Born in New York all
8 my life. I have 20 relatives in the city. I'm
9 married. I work for the Board of Education,
10 custodial engineer. My wife works in a dental
11 office. One child, she's four. I completed high
12 school.

13 THE COURT: Your four-year-old is not
14 working yet?

15 PROSPECTIVE JUROR: Not yet. I served on
16 a criminal jury. They did reach a verdict.

17 THE COURT: Do not tell me the verdict.
18 Tell me the charge.

19 PROSPECTIVE JUROR: Possession of
20 narcotics.

21 THE COURT: How long did you decide that
22 case?

23 PROSPECTIVE JUROR: Five days.

24 THE COURT: Did the lawyers or judge say
25 anything to you after you reached the verdict?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 THE COURT: Fine.

3 PROSPECTIVE JUROR: Never in the
4 military. My brother is a New York City police
5 officer.

6 THE COURT: What precinct?

7 PROSPECTIVE JUROR: 17th Precinct.

8 THE COURT: What's the nature of his
9 assignment?

10 PROSPECTIVE JUROR: It's two years on the
11 job, blue-and-white car. I've never been the
12 victim of a crime. Never a civil lawsuit. I can
13 follow the instructions. I live in Upper
14 Washington Heights.

15 THE COURT: Anything else?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Ms. Sullivan.

18 PROSPECTIVE JUROR: I was born in Los
19 Angeles, California. Lived in New York 14 years.
20 No relatives here in New York. Not married. I
21 work for a magazine publishing company. I do not
22 have any children. I have a college degree. I
23 have never served on any type of jury. I have not
24 been in the military. No relatives employed by
25 law enforcement. I was a victim of a crime.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: What happened to you?

2 PROSPECTIVE JUROR: Thirty years ago, a
3 theft. I have never been a party to a lawsuit for
4 any reason. I believe I can be impartial. I live
5 in midtown, Upper West Side area.

6 THE COURT: Tell me in two sentences
7 what you do at work.

8 PROSPECTIVE JUROR: Human resource.

9 THE COURT: That is a phrase.

10 PROSPECTIVE JUROR: I handle employment
11 issues and hire people.

12 THE COURT: So you've looked people in
13 the eye and say, you're hired, fired or not going
14 to be hired?

15 PROSPECTIVE JUROR: Some of that, yes.

16 THE COURT: Anything else?

17 PROSPECTIVE JUROR: My biological father
18 was a drug addict.

19 THE COURT: Tell me how that will affect
20 you as best you can determine now.

21 PROSPECTIVE JUROR: I think I can remain
22 impartial.

23 THE COURT: When you say "you think,"
24 does that mean you are satisfied to be impartial?

25 PROSPECTIVE JUROR: I am.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: The word "think" causes the
2 law system to get nervous. If you are satisfied
3 you can be fair regarding the substance, that's
4 fine with us.

5 Ms. Wicker.

6 PROSPECTIVE JUROR: I was born in Texas.
7 I've lived in New York City for three years. I
8 have zero relatives in New York City. I'm not
9 married. I'm working. I am an executive
10 recruiter. I have a college degree. No children.
11 I've never served on a jury. Never served in the
12 military. I have about five lawyers in the
13 family, either on --

14 THE COURT: Sorry to hear that. Are any
15 of them prosecutors or defense lawyers?

16 PROSPECTIVE JUROR: Either side.
17 Virginia, Tennessee and Texas.

18 THE COURT: Watch any of them, either
19 side, in a courtroom or trial?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Ever talk to them what
22 happens before a trial?

23 PROSPECTIVE JUROR: Sometimes.

24 THE COURT: Talk about what happened
25 after the trial?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: Sometimes.

2 THE COURT: Any of that affect you?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Continue.

5 PROSPECTIVE JUROR: I have been a victim
6 of a crime. I was robbed, my entire house.

7 THE COURT: Robbed when you were in your
8 residence?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Did the robber know you were
11 there when the robber was there robbing your
12 residence?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Was there interaction between
15 the two of you?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Were you injured?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Did you ultimately report the
20 event to the police?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Did the police capture the
23 intruder?

24 PROSPECTIVE JUROR: No.

25 THE COURT: How long was that event,

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 roughly?

2 PROSPECTIVE JUROR: Five years ago.

3 THE COURT: It was in?

4 PROSPECTIVE JUROR: Waco, Texas.

5 THE COURT: West Texas.

6 PROSPECTIVE JUROR: Right in the center
7 of Texas.

8 THE COURT: I got something wrong. I've
9 gotten used to that.

10 PROSPECTIVE JUROR: I have not been a
11 party to a civil lawsuit. I do feel that I can
12 follow the law and will be fair and impartial. I
13 live on the Upper East Side.

14 THE COURT: Anything else?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Ms. Pinker.

17 PROSPECTIVE JUROR: I was born in
18 Pittsburgh, Pennsylvania. I lived in New York for
19 three years. No relatives in the city. I'm
20 married. Currently unemployed.

21 THE COURT: What sort of work do you do?

22 PROSPECTIVE JUROR: Right now?

23 THE COURT: No. I know you're
24 unemployed.

25 PROSPECTIVE JUROR: I did work as an

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 insurance adjustor.

2 THE COURT: If that thing doesn't work
3 we'll, do it without the microphone. You were an
4 insurance adjustor in New York City?

5 PROSPECTIVE JUROR: No.

6 THE COURT: You've been unemployed
7 basically three years?

8 PROSPECTIVE JUROR: Yes. Trying to
9 convince my husband to let me go back to school to
10 be a teacher. My husband works for J.P. Morgan
11 Chase. No children. We have a dog. I have
12 college education. I've never served on a jury
13 before. I have never been called. Never served
14 in the military. No close friends in law
15 enforcement. I guess I got my car stolen one
16 time.

17 THE COURT: Did you report that?

18 PROSPECTIVE JUROR: Yes, I did.

19 THE COURT: Continue.

20 PROSPECTIVE JUROR: I've never been a
21 party to a civil lawsuit. I think I'm definitely
22 sure I can be fair and impartial. Live on the
23 Upper West Side.

24 THE COURT: What state did you come --

25 PROSPECTIVE JUROR: Illinois.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Ms. Wicker, what state did
2 you come from?

3 PROSPECTIVE JUROR: Texas.

4 THE COURT: We'll go to Mr. Caba.

5 PROSPECTIVE JUROR: I was born in the
6 Dominican Republic. I live in New York for
7 about 17 years. I have more than 50 relatives,
8 friends in New York. I'm married.

9 THE COURT: What's your job?

10 PROSPECTIVE JUROR: Maintenance.

11 THE COURT: Residence building?

12 PROSPECTIVE JUROR: Residential building.
13 My work wife works at the salon, hairstylist. I
14 have two children, 14 and 12.

15 THE COURT: Speak with them about drugs?

16 PROSPECTIVE JUROR: Always. I took some
17 writing and reading class from the unions that I
18 belong to. I never served in a Grand Jury before.
19 I never serve in military either, never. I do
20 have friends been employed by any law
21 enforcements, yes, I do.

22 THE COURT: How many police officers do
23 you know, roughly?

24 PROSPECTIVE JUROR: Three.

25 THE COURT: Do you see them as often as

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 every month or less often than that?

2 PROSPECTIVE JUROR: No. One of them,
3 like twice a month, and the other two, they'll be
4 here in the city.

5 THE COURT: Continue.

6 PROSPECTIVE JUROR: If I have any
7 relative or friends been victim? Yes.

8 THE COURT: Any victim of a violent
9 crime, anybody killed, anybody raped?

10 PROSPECTIVE JUROR: No, it's about drugs.

11 THE COURT: Some of your friends have
12 been convicted of drugs?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Some of them in state prison
15 now?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Does my name sound familiar.

18 PROSPECTIVE JUROR: Say again.

19 THE COURT: Does my name sound familiar.

20 PROSPECTIVE JUROR: No.

21 THE COURT: Can you be fair in a drug
22 case knowing friends or relatives are in jail?

23 PROSPECTIVE JUROR: I can be fair.

24 THE COURT: You can be?

25 PROSPECTIVE JUROR: Yes.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Continue.

2 PROSPECTIVE JUROR: Never been in a
3 lawsuit before, any court before. I guess I could
4 be fair.

5 THE COURT: When you say "I guess I can
6 be fair," what does that mean? Are you uncertain
7 about being fair? It's just the way you phrased
8 it. Are you certain you can be fair? I cannot
9 ask you to explain your statement, "I guess I can
10 be fair."

11 PROSPECTIVE JUROR: I can be fair hundred
12 percent.

13 THE COURT: You are satisfied you can be
14 fair?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Anything else we should
17 know?

18 PROSPECTIVE JUROR: I live in Lower East
19 Side.

20 THE COURT: Anything else?

21 PROSPECTIVE JUROR: That's it.

22 THE COURT: Thank you.

23 Mr. Daniels.

24 PROSPECTIVE JUROR: I was born in New
25 Jersey. I've lived in New York City for 25 years.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 I have no relatives living in New York City. I'm
2 not married. I sell advertising. I have no
3 children. I have a college degree. I have served
4 on a criminal jury, and we did reach a verdict.

5 THE COURT: Don't tell me the verdict,
6 but what was the charge?

7 PROSPECTIVE JUROR: It was a drug trial.

8 THE COURT: Did anyone speak with you
9 after you decided the case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Roughly how long was your
12 verdict?

13 PROSPECTIVE JUROR: Five years ago.
14 Never served in the Grand Jury. Never served in
15 the military. No close friends in law
16 enforcement. No victim -- none of my relatives
17 victims of crime. Never been a party to a lawsuit.
18 I certainly can be impartial. I live in the Upper
19 East Side.

20 THE COURT: Anything else?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Next I believe is Mr. Wysock.

23 PROSPECTIVE JUROR: I was in born in
24 Indiana. Primarily from Chicago. Lived in New
25 York for three years. No relatives in New York

VOIR DIRE

1 City. I am not married. I'm a surgical resident
2 in a hospital. I have a medical degree.

3 THE COURT: A part of the anatomy that
4 you are better at than others --

5 PROSPECTIVE JUROR: I'm a urologist.

6 THE COURT: Does that mean that you are
7 good at that or better at cardiology?

8 PROSPECTIVE JUROR: My specialty. Never
9 served on a civil or criminal jury. Never served
10 on a Grand Jury. Never served in the military. I
11 have an uncle who was a police officer. He's
12 retired. I've been robbed of minor things many
13 times, but it's minor.

14 THE COURT: Face-to-face situations or
15 something out of your car or apartment or dorm
16 room?

17 PROSPECTIVE JUROR: Correct. Never a
18 party to a civil lawsuit. I can be fair and
19 impartial. I live in the Upper East Side.

20 THE COURT: Anything else?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Mr. Taveras.

23 PROSPECTIVE JUROR: Born in the Dominican
24 Republic. Live in New York City for the
25 past 20 years. I am married. I work in

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 commercial building as a handyman. My wife is
2 home. I have four children from ages four to
3 fifteen. Four girls.

4 THE COURT: Spoke with the older ones
5 about drugs?

6 PROSPECTIVE JUROR: Yes, I do. I just
7 finish high school back home. I never serve in
8 the military. I never serve in the Grand Jury.
9 No friend or relative employed by any law
10 enforcement agency. I've never been convicted of
11 a crime, except a relative charged of a crime.

12 THE COURT: I will ask you about relative
13 charged with a crime in a minute.

14 PROSPECTIVE JUROR: I never been part of
15 a lawsuit. I believe being fair and impartial. I
16 live in Washington Heights.

17 THE COURT: Anything else?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Now, I need to ask the
20 questions about arrests, accusations or
21 convictions. As I said, it happens with any group
22 of New Yorkers. We heard reference that it
23 happened to yourself or relative.

24 You, yourself, ever arrested, accused of
25 by somebody, but not arrested or actually

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 convicted of some crime or offense?

2 Mr. Wagner.

3 PROSPECTIVE JUROR: I don't know if this
4 is what you mean. I was in court for DWI.

5 THE COURT: That's exactly what I mean.
6 Did you get a jail sentence, a program, fine,
7 suspension of license?

8 PROSPECTIVE JUROR: Lost license for six
9 months and 2 days, driver education.

10 THE COURT: Plead guilty or had a trial?

11 PROSPECTIVE JUROR: Had a trial.

12 THE COURT: A jury or judge?

13 PROSPECTIVE JUROR: A judge.

14 THE COURT: Somebody else? Mr. Haile.

15 PROSPECTIVE JUROR: I was arrested.

16 THE COURT: For what sort of thing?

17 PROSPECTIVE JUROR: Narcotics.

18 THE COURT: As a misdemeanor?

19 PROSPECTIVE JUROR: Misdemeanor.

20 THE COURT: Did you get a jail sentence,
21 a fine, community service or go in sentence?

22 PROSPECTIVE JUROR: Fine and community
23 service.

24 THE COURT: Did you do all that stuff?

25 PROSPECTIVE JUROR: Yeah.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Did it happen once or more
2 than once?

3 PROSPECTIVE JUROR: More than once.

4 THE COURT: More than five times?

5 PROSPECTIVE JUROR: Between five and ten.

6 THE COURT: Each time a police officer
7 accused you of something or did on more than one
8 of the occasions a civilian say you did something?

9 PROSPECTIVE JUROR: Police officer.

10 THE COURT: Each time?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Did you have a trial in any
13 of those events?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Plead guilty.

16 PROSPECTIVE JUROR: No.

17 THE COURT: Now we ask about relatives.
18 Relatives has a big meaning. Relatives means
19 civilian, domestic partners, people with whom you
20 have a sometime, frequent, intimate relationship,
21 it also means spouses, parent, children, brothers,
22 sisters. Any among that population arrested,
23 accused of, convicted of a crime?

24 Ms. Sullivan.

25 PROSPECTIVE JUROR: My father.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: You were an infant or not
2 born?

3 PROSPECTIVE JUROR: Small child.

4 THE COURT: Somebody else?

5 Mr. Perez.

6 PROSPECTIVE JUROR: My father was
7 convicted of a narcotics charge.

8 THE COURT: In New York?

9 PROSPECTIVE JUROR: No.

10 THE COURT: State prison sentence?

11 PROSPECTIVE JUROR: No. He was acquitted
12 that case.

13 THE COURT: Now, he was accused by police
14 officers or do you know the circumstances?

15 PROSPECTIVE JUROR: He was accused by
16 police officers.

17 THE COURT: The jury said not guilty?

18 PROSPECTIVE JUROR: There was no jury.

19 THE COURT: The judge said not guilty?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Mrs. Stuart, what's your
22 situation?

23 PROSPECTIVE JUROR: My father, he still
24 has a warrant out.

25 THE COURT: So one of my colleagues would

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 like to see your father. For what would my
2 colleague like to see your father; drugs, robbery?

3 PROSPECTIVE JUROR: Drugs, robbery,
4 abuse.

5 THE COURT: How long did the warrant come
6 into existence?

7 PROSPECTIVE JUROR: It's been out for a
8 while, but I just recently found out it's still
9 existing.

10 THE COURT: Anything else?

11 Mr. Taveras, you started to say
12 something. What's the relationship between you
13 and whoever was arrested or accused or convicted?

14 PROSPECTIVE JUROR: My mother's cousin,
15 he was charged drug dealing in New York City and
16 he be sentenced, but it's someone I see back home
17 when I was a teenager.

18 THE COURT: So he got a drug sentence in
19 New York?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Did you ever visit him in
22 jail?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Do you know whether he plead
25 guilty or the judge said guilty?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: I believe the jury.

2 THE COURT: Anybody else?

3 Last two questions. Anybody know anybody
4 who is or in the past was prosecuted by the
5 Manhattan District Attorney's office the entity
6 for which Mr. Berland works?

7 All right, you by the law have a chance
8 to ask questions. There is an actual specific
9 amount of time. They know, you need not. By law
10 the prosecution asks questions first. We'll hear
11 Mr. Berland's excellent questions.

12 MR. BERLAND: My name is Jason Berland.
13 I represent the People of the State of New York
14 against Edward Green. My time is extremely
15 limited. I will ask some you questions
16 specifically and others I will skip over entirely.
17 Do not be offended. The purposes of the jury
18 selection is to ensure that all sides have a fair
19 and impartial jury.

20 Ms. Shrijver, you said that your friend
21 was raped by a stranger and this was reported?

22 PROSPECTIVE JUROR: Yes.

23 MR. BERLAND: Was the culprit ever
24 arrested?

25 PROSPECTIVE JUROR: Yes, he was.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 MR. BERLAND: Ms. Wein, I think there was
2 some confusion when the questionnaires were being
3 turned over.

4 PROSPECTIVE JUROR: I wanted to say
5 something else. I did serve on Civil Court. I
6 said no to criminal and Grand Jury, but I did
7 serve on civil.

8 MR. BERLAND: You understand that the
9 principles of law that's for the judge to tell you
10 are different in a criminal case?

11 PROSPECTIVE JUROR: Yes.

12 MR. BERLAND: Were you ever the victim of
13 a crime? I don't think you had an opportunity to
14 answer that question.

15 PROSPECTIVE JUROR: Not really a victim.
16 My pocketbook had been taken, but I think it was
17 because I wasn't holding on to it.

18 THE COURT: Wait a minute. New York has
19 a definition for everything related to court
20 processes. Being a victim means your stuff was
21 taken. There is no fault involved. There's no
22 reward for being a victim.

23 PROSPECTIVE JUROR: It wasn't a personal
24 confrontation.

25 MR. BERLAND: Ms. Mitchell, you said you

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 have friends who are police officers in
2 Westchester County. Are these close friends?

3 THE COURT: You have to yell, because she
4 loses her job if she doesn't take down every
5 syllable and since she is responsible for
6 countless number of people, it's upon all of us to
7 ensure future employment.

8 PROSPECTIVE JUROR: A neighbor and my
9 godfather.

10 MR. BERLAND: Your relationship with the
11 two individuals affects your ability to be fair
12 and impartial when police officers take the stand
13 in this case -- let me rephrase.

14 Do you have a bias towards the police
15 department based on that relationship?

16 PROSPECTIVE JUROR: I like them.

17 MR. BERLAND: Can all of you keep an open
18 mind when you listen to the testimony of all the
19 witnesses who take the stand on this case?

20 PROSPECTIVE JURORS: Yes.

21 MR. BERLAND: Ms. Stubbendeck, Ph.D. in
22 the history of violent gangs.

23 PROSPECTIVE JUROR: Urban gangs.

24 THE COURT: Are there peace-loving urban
25 gangs?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: Also a difference.

2 THE COURT: Is that one of the community
3 activist things?

4 PROSPECTIVE JUROR: Kind of a melting of
5 both of them. I study perceptions of gangs and
6 public policy.

7 MR. BERLAND: You've done research into
8 narcotics trafficking?

9 PROSPECTIVE JUROR: I haven't actually
10 felt that at all.

11 THE COURT: She speaks like an academic.

12 MR. BERLAND: As the judge has told all
13 of you, the defendant is charged with possessing
14 more than half a kilogram of cocaine inside of an
15 apartment. Not talking about a couple small
16 Ziploc bags, talking about more than a pound of
17 cocaine. With that being said -- this is the
18 general question.

19 Is there anyone here who, for whatever
20 reason, generally believes the possession of
21 cocaine, no matter what the amount is, should be
22 legalized?

23 Mr. Perez you said your father was
24 convicted of a narcotics crime?

25 PROSPECTIVE JUROR: Yes.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 MR. BERLAND: Would that -- do you have
2 any ill will or feelings about the police, how
3 they handled any aspect of your father 's case?

4 PROSPECTIVE JUROR: No, I don't.

5 MR. BERLAND: When police officers are
6 going to take the stand, testify, you will sit
7 back and listen to them and their testimony solely
8 on what you hear about this case?

9 PROSPECTIVE JUROR: I'll hear the
10 evidence and when the evidence is finished, I can
11 make my judgment.

12 MR. BERLAND: Mr. Wagner, I want to talk
13 about your DWI conviction. Did that go to trial?

14 PROSPECTIVE JUROR: It was in Hawthorne,
15 New Jersey. The judge gave me the sentence.

16 MR. BERLAND: Did any police officer, I
17 am assuming they did, testify?

18 PROSPECTIVE JUROR: They did.

19 MR. BERLAND: Do you have ill will
20 towards police officers in general because of your
21 experience?

22 PROSPECTIVE JUROR: No.

23 MR. BERLAND: So you will be able to keep
24 an open mind and listen to the police officers in
25 this case fairly and impartially?

YVETTE PACHECO SENIOR COURT REPORTER

—VOIR DIRE—

1 PROSPECTIVE JUROR: Yes.

2 MR. BERLAND: You're sure.

3 PROSPECTIVE JUROR: I'm positive.

4 MR. BERLAND: Ms. Sullivan, you said you
5 were very young and your father was convicted of a
6 drug crime. Would that affect your ability to sit
7 on a case where the charge here is possession of a
8 large quantity of cocaine?

9 PROSPECTIVE JUROR: No.

10 MR. BERLAND: Are you sure?

11 PROSPECTIVE JUROR: Yes.

12 MR. BERLAND: You said your brother's in
13 the 17th Precinct?

14 PROSPECTIVE JUROR: Yes.

15 MR. BERLAND: Rookie?

16 PROSPECTIVE JUROR: Yes.

17 MR. BERLAND: Are you close with your
18 brother?

19 PROSPECTIVE JUROR: I think so.

20 MR. BERLAND: Do you speak a lot to him
21 about his job?

22 PROSPECTIVE JUROR: Not really.

23 MR. BERLAND: Would that relationship
24 affect your ability to keep an open mind?

25 PROSPECTIVE JUROR: I will be impartial.

—YVETTE PACHECO SENIOR COURT REPORTER—

VOIR DIRE

1 MR. BERLAND: Ms. Wicker, you were robbed
2 in your apartment?

3 PROSPECTIVE JUROR: Home.

4 MR. BERLAND: How many years ago?

5 PROSPECTIVE JUROR: Five.

6 MR. BERLAND: I think you said the
7 intruder was never captured?

8 PROSPECTIVE JUROR: Uh-huh.

9 MR. BERLAND: You reported it to the
10 police?

11 PROSPECTIVE JUROR: Uh-huh.

12 MR. BERLAND: How do you feel the police
13 handled the investigation?

14 PROSPECTIVE JUROR: Good.

15 MR. BERLAND: No lack of effort on their
16 part that no one was caught?

17 PROSPECTIVE JUROR: No.

18 MR. BERLAND: Ms. Pinker, you said you'd
19 like to go back to school to become a teacher.
20 What do you want to teach?

21 PROSPECTIVE JUROR: Elementary schools,
22 fifth or sixth graders.

23 MR. BERLAND: Mr. Caba, I didn't hear you
24 when you stated where you currently work.

25 PROSPECTIVE JUROR: Maintenance.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: You have seven minutes.

2 MR. BERLAND: Left or into it?

3 THE COURT: There's not much difference.

4 MR. BERLAND: Your friends -- you said
5 you had friends more than one convicted of a drug
6 crime?

7 PROSPECTIVE JUROR: Yes. Brother-in-law
8 is in prison.

9 MR. BERLAND: Did you go watch any of the
10 court proceedings in those cases?

11 PROSPECTIVE JUROR: No.

12 MR. BERLAND: Will those representations
13 affect your ability to distance yourself and say
14 this is a drug trial, but has nothing do with
15 it?

16 PROSPECTIVE JUROR: No.

17 MR. BERLAND: No, you will not be fair.

18 PROSPECTIVE JUROR: Not affect me.

19 MR. BERLAND: No problem?

20 PROSPECTIVE JUROR: No.

21 MR. BERLAND: Mr. Taveras, same question
22 to you.

23 PROSPECTIVE JUROR: I am a perceptive
24 fellow.

25 THE COURT: He has no problem.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 MR. BERLAND: Family members convicted of
2 a drug crime?

3 PROSPECTIVE JUROR: Yes.

4 MR. BERLAND: Would that affect your
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No.

7 MR. BERLAND: Are you sure?

8 PROSPECTIVE JUROR: Yes, I am.

9 MR. BERLAND: I will wrap it up. The
10 judge briefly touched on this. There are people
11 who, for a variety of reasons, might be
12 uncomfortable of returning a verdict guilty. I
13 know Ms. Sullivan told us she's in human resources
14 and has to make decisions whether to hire or fire
15 people.

16 I can undoubtedly tell you the decision
17 in this case, whether or not you find the
18 defendant guilty or not guilty, will be a
19 difficult decision.

20 Anyone here for any religious reasons,
21 political beliefs or moral reasons will not be
22 able to say the words guilty if I prove this case,
23 the elements beyond a reasonable doubt?

24 This is my last or my only chance to
25 speak with you one-on-one. I need to know if

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 there is anything that will prevent you from
2 saying the words guilty if the case is proven
3 beyond a reasonable doubt? Anyone here that feels
4 that way?

5 Do you know weather when you go to a
6 wedding whether the priest or rabbi, says speak
7 now or forever hold your peace? This is it.
8 Anything else that I should know, the defendant
9 should know that isn't covered in the
10 questionnaire?

11 I thank you for your time.

12 THE COURT: Mr. Keith.

13 MR. KEITH: I want to make sure I get the
14 names right. Again, my name is Arnold Keith. I
15 represent Edward Green. As you know, this case is
16 a drug case. He's being accused of possessing a
17 fair amount of narcotics.

18 Is there anybody here, based on what
19 they've heard so far, anyone here made any
20 decisions about this case?

21 Can you all promise me that you will
22 follow the legal instructions that are given to
23 you by Justice McLaughlin and put aside any
24 personal feelings you have about the law, that you
25 will follow the law that he gives to you? Can you

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 all promise me that you will do that if you are
2 picked to serve on this jury? Nobody has a
3 problem with that concept?

4 Now, I want to ask a few of you some
5 individual questions.

6 Ms. Mitchell, I will start with you. I
7 appreciate and understand you like police
8 officers. Is that fair to say?

9 PROSPECTIVE JUROR: Yes.

10 MR. KEITH: You have relatives that are
11 police officers?

12 PROSPECTIVE JUROR: Friends.

13 MR. KEITH: Would you agree with me that
14 of the 30,000 or so New York City police officers
15 that there might be a few that you might not like?

16 PROSPECTIVE JUROR: Yes.

17 MR. KEITH: With regards to your
18 evaluation of testimony that you may hear in this
19 case, can you assure me that you will evaluate a
20 police officer's testimony the same way you would
21 the testimony of someone else? Do you think you
22 will be able to do that?

23 PROSPECTIVE JUROR: Um --

24 THE COURT: You just hesitated. This is a
25 tough question because there is an unfamiliar

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 thing she's being asked.

2 PROSPECTIVE JUROR: The only reason I
3 hesitate is because I think I hold police officers
4 in a higher regard.

5 THE COURT: Are you open to the
6 possibility that any witness, but now he's
7 specifically asking regarding them, including a
8 police officer, could lie, exaggerate, be mistaken
9 or tell the truth?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Actually sit here and then
12 not tell the truth.

13 PROSPECTIVE JUROR: Can you repeat the
14 question?

15 THE COURT: Sure.

16 Are you open to the possibility that a
17 police officer will come here and purposely lie to
18 you folks?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Well then, have a nice day.
21 You cannot sit here. Have a nice day.

22 Not to think that you are running a
23 nonsensical system, what just happened is the
24 following. If you are on the street and you are
25 lost and you ask a police officer how do you get

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 to the Carnegie Hall and a police officer says you
2 take the number 7 up to whatever it is, 50th
3 Street and walk a little bit, you really would
4 have to be a bizarre individual, having heard what
5 the cop said about the directions, to say to
6 yourself, I wonder if she was lying to me. You
7 just wouldn't do that. You would get on the subway
8 and find yourself to Carnegie Hall.

9 In a courtroom, though, when somebody
10 says something, whether it is the police or
11 nonpolice, your job is to scrutinize, examine. If
12 you accept it, it's fine. If you reject it,
13 that's fine.

14 She, apparently, could not conceive the
15 possibility that a police officer would perjure
16 himself. She could not sit here. She made up her
17 mind that a certain set of facts could not happen.
18 I'm not suggesting that it is or isn't going to
19 happen, but she cannot be here.

20 Go ahead.

21 MR. KEITH: The testimony in this case,
22 the overwhelming majority of the testimony will
23 come from police officers. As the judge has
24 indicated, we're asking you to have an open mind,
25 and to fairly evaluate, fairly and impartially

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 evaluate the testimony and the evidence that you
2 will hear in this case if you are selected.

3 Mr. Wysock, your uncle is a retired
4 police officer. Can you assure me if you are
5 selected as a juror, that you will carefully
6 evaluate what you are told, listen for the
7 inconsistencies, the consistencies, the
8 specificity, the lack of specificity and make a
9 decision in the end after instructed on the law by
10 the judge?

11 PROSPECTIVE JUROR: Yes.

12 MR. KEITH: You can assure me you can
13 have an open mind and listen to the testimony and
14 give Mr. Green a fair trial?

15 PROSPECTIVE JUROR: Yes.

16 MR. KEITH: Mr. Caba, I believe you
17 indicated that you have three police officer
18 friends. Can you make the same assurances to me,
19 that Mr. Green will get a fair trial?

20 PROSPECTIVE JUROR: Yes.

21 MR. KEITH: I have to ask you a couple of
22 other questions. You work as a maintenance man in
23 a residential building; is that correct?

24 PROSPECTIVE JUROR: Yes.

25 MR. KEITH: Do you repair things?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 MR. KEITH: Do you ever have occasion to
3 go into a person's apartment.

4 PROSPECTIVE JUROR: Yes.

5 MR. KEITH: On those occasions, are there
6 times when you have to go into a person's
7 apartment and the person isn't home?

8 PROSPECTIVE JUROR: Sometimes.

9 MR. KEITH: Moving on. Mr. Taveras, I
10 believe you indicated that you work as a handyman
11 in a commercial building?

12 PROSPECTIVE JUROR: Yes, sir.

13 MR. KEITH: Do you repair things?

14 PROSPECTIVE JUROR: Yes.

15 MR. KEITH: I guess in a commercial
16 building you go into offices sometimes?

17 PROSPECTIVE JUROR: Uh-huh.

18 MR. KEITH: Sometimes you go into offices
19 not occupied by the person who works there?

20 PROSPECTIVE JUROR: Most of the time they
21 have to be there.

22 MR. KEITH: Ms. Johnson, do you have a
23 cousin who is a retired police officer?

24 PROSPECTIVE JUROR: Yes.

25 MR. KEITH: Can you assure me that if you

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 get a chance to evaluate the testimony of a police
2 officer in this case, that you will give Mr. Green
3 a fair trial and listen carefully, evaluate what
4 the officer says?

5 PROSPECTIVE JUROR: Yes.

6 MR. KEITH: Mr. Ryan, your brother is
7 brand-new on the job. Can you make the same
8 assurance?

9 PROSPECTIVE JUROR: Absolutely.

10 MR. KEITH: I can tell.

11 Now, under the law, my client is presumed
12 innocent. Basic principles of American criminal
13 law. Does anybody have a problem with that
14 concept?

15 Does anybody have a problem with the idea
16 that he doesn't have to say anything, doesn't have
17 to do anything? It's the People's burden to try
18 to prove his guilt beyond a reasonable doubt. Can
19 you all accept that legal principle? Anyone who
20 has a problem with that?

21 There will be other legal concepts,
22 including those concepts further described by
23 Justice McLaughlin. I ask you to promise me if you
24 are selected as a juror in this case, that you
25 will accept the legal principles in this courtroom

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 unequivocally, no matter what your personal
2 'beliefs are. Can everyone promise me that?

3 You will hear the definition of
4 possession and dominion and control. These things
5 will be explained to you by the judge. I'm asking
6 you to follow the legal instructions that you get
7 in this case unequivocally. Anyone have a problem
8 with that?

9 Mr. Daniels, I believe you served before
10 on a criminal case; it was a drug case?

11 PROSPECTIVE JUROR: Yes.

12 MR. KEITH: You also indicated that after
13 the case, you didn't speak to the lawyers or the
14 judge.

15 PROSPECTIVE JUROR: No, we just left.

16 MR. KEITH: I know it's a similar type of
17 case, you would think the same laws would apply.
18 I'm asking you, sir, if you are selected on this
19 case, you follow this judge's instructions. Can
20 you do that?

21 PROSPECTIVE JUROR: Absolutely.

22 MR. KEITH: Mr. Perez, were you present
23 for your father's trial?

24 PROSPECTIVE JUROR: Yes, I was.

25 MR. KEITH: It was a judge trial, so you

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 didn't hear any legal instructions?

2 PROSPECTIVE JUROR: They were introducing
3 the evidence.

4 THE COURT: Was there a jury like this
5 group?

6 PROSPECTIVE JUROR: No.

7 MR. KEITH: Mr. Haile, you indicated that
8 you've been arrested before, and you've been
9 accused by the police before. So if you were to
10 serve on this jury, we, both myself and the
11 prosecutor and the judge, we need you to be fair
12 and impartial to both sides.

13 Can you assure us that if you are
14 selected, you will listen to the police officer
15 testimony, hear what they have to say, and decide,
16 after hearing all the evidence and hearing the
17 judge's instructions on the law, can you promise
18 me you can do that?

19 PROSPECTIVE JUROR: Yes.

20 MR. KEITH: Do you think having been
21 accused by the police so many times, that you can
22 be fair and give the prosecutor a fair trial?

23 PROSPECTIVE JUROR: Yes.

24 MR. KEITH: Can you give my client,
25 Mr. Green, a fair trial, and hold them to their

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 burden of proof?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Couple more minutes.

4 MR. KEITH: Thank you, Your Honor.

5 THE COURT: Don't get carried away.

6 MR. KEITH: Ms. Sullivan, I understand
7 that your father was a drug addict, and you
8 understand that Mr. Green is being accused of drug
9 possession. Is there anything about those facts
10 that would affect your ability to be a fair juror
11 on this case?

12 PROSPECTIVE JUROR: I'd have to hear the
13 facts.

14 MR. KEITH: Well, we are going to hear
15 that he was in a room and in a closet and couple
16 of safes in that room there was a bunch of drugs.
17 Can you give him a fair trial? He is accused of
18 possession of drugs.

19 PROSPECTIVE JUROR: Yes.

20 MR. KEITH: Ladies and gentlemen, the
21 issue in this case is going to be real simple.
22 The defense is going to be really simple.
23 Basically, wrong place, wrong time. All I am
24 asking you to do, if selected as a juror, I need
25 an assurance from all that you keep an open mind,

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 that you follow Judge McLaughlin's instructions on
2 the law, and you listen carefully to what the
3 police officers have to say about the evidence and
4 information that they were involved in on the day
5 in question.

6 Can all of you promise that if you are
7 selected, that you will do that?

8 Has anybody heard anything so far this
9 morning that thinks they cannot be a fair and
10 impartial juror in this case?

11 Thank you.

12 THE COURT: Different instructions for
13 different groups of people now. Of the people who
14 are prospective jurors, how many of you routinely
15 at work will get a two-hour lunch? All right.
16 Upon your promise that you will not think this is
17 routine, that's what you are going to get because
18 this is not the only case I have to deal with
19 before I deal with the jury again.

20 You folks I'm going to ask to stay
21 because the lawyers and Mr. Green and I will make
22 decisions regarding you folks. The prospective
23 jurors, I will tell you a time to be outside the
24 room, not to walk through the door, but be
25 available to us. The time is 2:30. I have given

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 you a schedule.

2 Next Monday or Tuesday you will decide
3 the case. I'm here until 2012. My guess is none of
4 you want to be here past next week. If you come
5 back at a quarter of three or 3:15, I don't care.

6 Under the rules, they go back
7 about 8025 years, I have to wait and your fellow
8 citizens have to wait, so don't keep us waiting.

9 We'll let you know who among you have
10 been selected and then given further instructions
11 once we make the decisions. When the flock has
12 left, you can leave.

13 COURT OFFICER: The prospective juror
14 wants to say something to you not in front of the
15 other prospective jurors.

16 THE COURT: Come on up.

17 (Whereupon, a sidebar conference was held
18 on the record out of the hearing of the jury.)

19 THE COURT: Hi. Under the rules, a
20 private conversation basically is with the lawyers
21 and myself.

22 What do you want to say?

23 PROSPECTIVE JUROR: I was always told
24 what to say, but as I grew up, I found a way not
25 to discriminate against. Since my father has the

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 same charges as him and other charges, I don't
2 know how to relate as I got older. I was
3 brainwashed.

4 THE COURT: Brainwashed in what presence?

5 PROSPECTIVE JUROR: By lawyers, my mother
6 to tell me what to say. Now that I have my own
7 opinion, I understand things now. It's like I'm
8 half and half.

9 THE COURT: You haven't gotten over the
10 brainwashing yet?

11 PROSPECTIVE JUROR: I have, but I'm still
12 maybe I should say the right thing, maybe I should
13 say what I've been told, my own opinion.

14 THE COURT: Are you satisfied that you
15 did tell us your own opinion?

16 PROSPECTIVE JUROR: Yes, I did tell my
17 own opinion.

18 THE COURT: Do you think you will be able
19 to give your truthful opinion in the jury room?

20 PROSPECTIVE JUROR: Yes, but I feel
21 something will overtake, say I'll change my mind
22 during the process.

23 THE COURT: Change your mind for a bad
24 reason or okay reason?

25 PROSPECTIVE JUROR: Both.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: What kind of bad reason?

2 PROSPECTIVE JUROR: Like I'll think I
3 don't think this is correct, I don't think this is
4 correct.

5 THE COURT: Well, maybe we should excuse
6 you.

7 Do you want to ask her some questions?

8 PROSPECTIVE JUROR: There's still the
9 warrant out. So it's like every year it's
10 something different. Every year, new charges.

11 MR. KEITH: I don't want to put you on
12 the spot.

13 THE COURT: I do.

14 MR. KEITH: I guess we do in so many
15 words. This is now about Mr. Green.

16 PROSPECTIVE JUROR: I know.

17 MR. KEITH: You will hear testimony from
18 police officers, and part of the process is to
19 make decisions, to evaluate from what you hear in
20 this courtroom and that's all we ask you to do.
21 Do you think you can do it?

22 PROSPECTIVE JUROR: I know I can. In the
23 back of my mind, I will have a gut feeling.

24 MR. KEITH: You will take it out on
25 Mr. Green or out on the prosecution?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: Honestly, I don't
2 know until we're in the process.

3 THE COURT: I don't know whether she's
4 comfortable that she can make whatever decision
5 she's going to make and not be worried that either
6 she made a wrong one or that before it's actually
7 made, she will change.

8 Do you feel uncomfortable to do whatever
9 is required?

10 PROSPECTIVE JUROR: When I heard the
11 address, it doesn't bother since that's the exact
12 place where I live, doesn't bother me. Now that
13 he told me exactly what happened, I don't know if
14 it was he said, she said.

15 MR. KEITH: It's drugs.

16 PROSPECTIVE JUROR: Wrong place, wrong
17 time.

18 MR. KEITH: That's my defense.

19 PROSPECTIVE JUROR: Yeah I know. Since I
20 heard his defense, I didn't know that before.
21 Since that's what I heard, like, I don't know.

22 THE COURT: He's not a witness.

23 PROSPECTIVE JUROR: I know.

24 THE COURT: You have to decide on what
25 happens here. Can you hold off judgment? If

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 there weren't something to be said, we wouldn't be
2 having a trial. You have to make a decision about
3 something. Can you wait to see or you are just so
4 uncomfortable about your ability to do this?

5 PROSPECTIVE JUROR: Not uncomfortable.
6 Don't want to make the wrong mistake during the
7 time. I can't tell you during the time.

8 THE COURT: Any questions?

9 MR. KEITH: No further questions.

10 THE COURT: Why don't you wait outside.

11 Do you want to say anything?

12 MR. KEITH: Sounds like that is a part of
13 the deliberations process. I don't necessarily
14 see that she has to be excused.

15 MR. BERLAND: I respectfully disagree. I
16 think there's cause.

17 THE COURT: I was here, I watched it, I
18 saw her. If there is a situation where I'm making
19 a mistake in excusing one disqualified juror for
20 another one, so be it. She cannot make a decision.
21 She's excused.

22 MR. BERLAND: Any cause challenges? I
23 just excused number three. Any cause challenges
24 on the first 14 seats, the first 12 people?

25 MR. BERLAND: Through Ms. Johnson, no.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Cause on the defense?

2 MR. KEITH: No, Your Honor.

3 THE COURT: Peremptory by the People,
4 first 12 people?

5 MR. BERLAND: No, Your Honor.

6 THE COURT: Defense.

7 MR. KEITH: May I have a moment with my
8 client?

9 THE COURT: Okay.

10 MR. KEITH: The defense would like to
11 exercise challenges as to juror number one,
12 Ms. Shrijver; juror two, Wein; juror five, Cole;
13 juror number nine, Pinker; juror ten, Wicker;
14 juror 11, Ms. Sullivan. I think we have five
15 jurors; is that correct?

16 THE COURT: Potentially, we have six. You
17 have not said a thing about 12, 13 and 14.

18 MR. KEITH: They are okay.

19 THE COURT: Then we have six.

20 MR. KEITH: I'm sorry, juror number eight
21 we exercise a challenge on.

22 THE COURT: Hall.

23 Carvin is one, Stubbendeck is two, Riley
24 is three, Wagner is four, Johnson is five.

25 On the next six, any cause by the People?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 MR. BERLAND: I want to qualify that Caba
2 is 17 and Taveras is 20.

3 THE COURT: Daniels is 17, Caba is 18.

4 MR. BERLAND: Wysock is 19.

5 THE COURT: Wysock is 19.

6 MR. BERLAND: Cause to number 15,
7 Mr. Haile. Although he stated that he could be
8 fair and impartial, in light of the fact nine to
9 10 narcotics conviction, I don't see that was
10 possible.

11 THE COURT: Maybe he pled guilty because
12 he was guilty and they didn't want to waste
13 anybody's time.

14 MR. BERLAND: That is always a potential,
15 Your Honor.

16 THE COURT: Did you finish your
17 application?

18 MR. BERLAND: That's it.

19 THE COURT: Denied. The very thing for
20 which and about which peremptories were created,
21 all three of them, unfortunately here we have 20.

22 Any cause by the defense?

23 MR. KEITH: No, Your Honor.

24 THE COURT: People's position
25 peremptorily.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 MR. BERLAND: Number 15, Mr. Haile,
2 number 16, Perez and number 18, Mr. Caba. That's
3 it.

4 THE COURT: And the defense would opt to
5 do what?

6 MR. KEITH: Your Honor, we challenge
7 Mr. Daniels, juror number 17.

8 THE COURT: The other two are okay?

9 MR. KEITH: Yes, sir.

10 THE COURT: Dr. Wysock, juror number six
11 and Mr. Taveras, juror number seven.

12 Bring in everybody, please.

13 COURT OFFICER: Panel entering.

14 THE COURT: Thank you for being patient.
15 As is always the case, some have been selected,
16 some have not been. If you have not been chosen,
17 it's not a reflection as a human being. Your
18 friends and family will still love you whether you
19 are on a case or not.

20 Tell them who has been excused and who
21 remains.

22 THE CLERK: Following jurors remain in
23 your seat. If I do not call your name, you are
24 excused, and report back to room 1517.

25 Timothy Carvin. Megan Stubbendeck,

YVETTE PACHECO SENIOR COURT REPORTER

~~VOIR DIRE~~

1 David Riley, Michael Wagner, Gerforne Johnson,
2 James Wysock, and Rafael Taveras. If you heard
3 your name, remain seated. If you are excused, go
4 back to the central jury room at 2:15. We'll send
5 your ballots down there.

6 Are the remaining people satisfactory to
7 the prosecution?

8 MR. BERLAND: Yes.

9 THE COURT: To the defense?

10 MR. KEITH: Yes.

11 THE COURT: Stand up and take the oath,
12 please.

13 THE CLERK: Raise your right hand.

14 Do you swear or affirm to try the case of
15 the People of the State of New York versus Edward
16 Green in a fair and impartial manner, and to the
17 best of your ability render a true verdict
18 according to the law and evidence.

19 JURORS: Yes.

20 THE COURT: I do not need you for the
21 rest of the day. Need you at 9:45 tomorrow. Go
22 with the sergeant or officer, give them what they
23 need, take the identification card from them.
24 Please be available because we're little ahead of
25 schedule. We'll finish it this afternoon and start

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 the trial at 9:45 tomorrow morning.

2 (Whereupon, a lunch recess was taken,
3 after which the following proceedings were had:)

4 THE COURT: Sorry it took a few minutes
5 longer. We're almost ready. Once everybody comes
6 in, we'll call 20 more people and do another round
7 and probably pick a jury this afternoon.

8 Call 20 more people, please.

9 THE CLERK: Michele Cabrera, seat number
10 one. Beth Steinberg, seat number two. Anna
11 Torres seat, number three. Lisee August, seat
12 number four. Steven Dunford, seat number five.
13 Helen Sher, seat number six. Grant Makarian, seat
14 number seven. Andrew Wah, seat number eight.
15 Khalid Akbar, seat number nine. Denise Ward, seat
16 number ten. Shannon Paulson, seat number 11.
17 Anna Gjika, seat number 12. Penny Gibson, seat
18 number 13. Patricia Crystal, seat number 14.
19 Danillo Antonio, seat number 15. Nathaniel
20 Higgins, seat number 16. Brenda Rojas, seat
21 number 17. Robert Jenkins, seat number 18. Donald
22 Keister, seat number 19. Cornelia O'Connor, seat
23 number 20.

24 THE COURT: Those of you who will
25 ultimately be jurors and appearing here for

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 several days should understand that the
2 temperature in this room fluctuates from 40 to 80
3 and the transition can take place within an hour,
4 and so perhaps with a little bit of hyperbole I
5 urge jurors to wear bathing suits under down coats
6 in order to deal with the temperature
7 fluctuations.

8 I will change the rule a little bit for
9 the second round, which you will be pleased which
10 will take will time because the lawyers have less
11 time this time, but also because of this rule
12 change.

13 When your turn comes, if there's
14 something that might potentially disqualify you,
15 mention that right away. It does not necessarily
16 disqualify you, but for example we had Ms. Stuart
17 this morning said that she lived within three
18 blocks from where this event took place. That's
19 the sort of thing that might disqualify her. I'm
20 not going to give you examples.

21 If there is something that might
22 disqualify you, mention it right away. It doesn't
23 mean automatically you will not be here, but if it
24 winds up excusing you, it's better to do it early
25 than late.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Go ahead, Ms. Cabrera.

2 PROSPECTIVE JUROR: I was born -- I was
3 born --

4 THE COURT: It's like listening to my
5 radio which doesn't work too well.

6 PROSPECTIVE JUROR: I was born here in
7 New York City. I have lived here 19 years, all my
8 life. --

9 THE COURT: This will be speech class.
10 We're going to do it as we never heard of these
11 things. As a leader, I'll do the same thing, let's
12 go. I'm the only one who wants to be here
13 till 2012. Tell us about yourself in accordance
14 with the questionnaire.

15 PROSPECTIVE JUROR: I was born here in
16 New York City. I lived here 19 years, my whole
17 life. I have about 15 to 20 relatives that live
18 here in the city. Am not married. I work. I'm a
19 mail processor.

20 THE COURT: You process the people of the
21 male gender?

22 PROSPECTIVE JUROR: Mail as in postage
23 mail.

24 THE COURT: How do you do that?

25 PROSPECTIVE JUROR: It's a DVD company

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 and we mail -- receive and mail out DVDs to the
2 right people.

3 THE COURT: Continue.

4 PROSPECTIVE JUROR: I don't have any
5 children. I have a high school diploma and some
6 college background. I have never served in a
7 civil, criminal or Grand Jury. I never served in
8 the military. I have no close friends or family
9 members that have worked in law enforcement. None
10 of my relatives or friends have been victims of a
11 crime. I've never been a party to a civil
12 lawsuit. Yes, I would follow the law as the Court
13 instructs me and I will be fair and impartial. I
14 live in Midtown Manhattan.

15 THE COURT: Anything else we should know?
16 No. Then we'll go to Ms. Steinberg.

17 PROSPECTIVE JUROR: Born in Los Angeles.
18 Lived in New York and Los Angeles for the last
19 eight years. I have a couple of cousins who live
20 in New York. I was married. Currently living
21 with my boyfriend. I am an investment banker. My
22 boyfriend is an investment banker, we do not have
23 any children. I am a college graduate. Never
24 served on a civil, criminal or any other jury.
25 Never served in the military. I was held up at

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 gunpoint 10 years ago.

2 THE COURT: In Los Angeles?

3 PROSPECTIVE JUROR: In Los Angeles.

4 THE COURT: During that robbery, was
5 there more than one robber?

6 PROSPECTIVE JUROR: Two robbers.

7 THE COURT: One gun, one knife?

8 PROSPECTIVE JUROR: Two guns.

9 THE COURT: Did you report that event to
10 the police?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Continue.

13 PROSPECTIVE JUROR: I have never been a
14 party to a civil lawsuit or in court for any
15 reason. I will follow the law to the best of my
16 ability. I live in the West Village. I had a
17 college roommate who OD'd on cocaine.

18 THE COURT: Died?

19 PROSPECTIVE JUROR: Did not die.

20 THE COURT: Cocaine, heroin or do you
21 know the substance?

22 PROSPECTIVE JUROR: Cocaine.

23 THE COURT: Do you live west or east of
24 Hudson Street?

25 PROSPECTIVE JUROR: East of Hudson

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Street.

2 THE COURT: That's my own personal survey
3 of what constitutes the West Village. Anything
4 else we need to know?

5 Ms. Torres.

6 PROSPECTIVE JUROR: I speaking a little
7 bit, not too much.

8 THE COURT: All right. This would be a
9 problem. What do you do for a living? How do you
10 make money?

11 PROSPECTIVE JUROR: Work.

12 THE COURT: What work do you do?

13 PROSPECTIVE JUROR: I baby-sitting.

14 THE COURT: Are the babies under two
15 years old?

16 PROSPECTIVE JUROR: Three.

17 THE COURT: Doesn't speak English,
18 Spanish at all?

19 PROSPECTIVE JUROR: She speaking English.

20 THE COURT: Little bit?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: How much of what I said have
23 you not understood?

24 PROSPECTIVE JUROR: Tell me again.

25 THE COURT: How much of what I have said

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 did you not understand? Do you understand?

2 PROSPECTIVE JUROR: I understand --

3 THE COURT: I'll tell you what, practice
4 talking with the three-year old as he gets older
5 and come back here in a couple of years. You're
6 excused for now.

7 Fill seat number three.

8 THE CLERK: Amy Wigler, seat number
9 three.

10 THE COURT: Thank you for trying,
11 Ms. Torres.

12 Ms. Wigler.

13 PROSPECTIVE JUROR: Born in Detroit. I've
14 lived in New York City for ten years. I have four
15 relatives living in New York City. I'm married. I
16 work in entertainment.

17 THE COURT: What does that mean?

18 PROSPECTIVE JUROR: I do marketing for an
19 entertainment company, MTV Networks.

20 MR. KEITH: What is it she does?

21 THE COURT: She does marketing for MTV
22 Networks that purportedly entertains me.

23 PROSPECTIVE JUROR: My husband is a
24 rabbi.

25 THE COURT: She should stop there. If

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 there anybody who was a minister or spouse or
2 companion of a minister, I ask the following
3 questions. You heard me say a couple of times
4 that you have to follow New York 's law.

5 Sometimes New York's law and a person's moral or
6 ethical or philosophical code, religious beliefs
7 differ. You heard me say that you have to follow
8 New York's law. That means, that if there were, I
9 don't see it happening in this case, if there were
10 a moral difference between your view of something
11 and New York's view of something, you'd be
12 required to follow me or leave. Do you
13 potentially have any problem like that?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Go ahead.

16 PROSPECTIVE JUROR: I do have a baby at
17 home.

18 THE COURT: Small baby?

19 PROSPECTIVE JUROR: Yeah, ten months.
20 I'm a college graduate. I've never served on a
21 jury of any sort. Never served in the military.
22 I don't know anyone from law enforcement agency. I
23 do have a close friend who has been a victim of a
24 violent crime.

25 THE COURT: What happened to him or her?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: Mugged, attacked and
2 kidnapped.

3 THE COURT: Survived but injured?

4 PROSPECTIVE JUROR: Injured seriously.

5 THE COURT: Hospitalized?

6 PROSPECTIVE JUROR: Hospitalized.

7 THE COURT: Recovered?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: In New York?

10 PROSPECTIVE JUROR: In New York.

11 THE COURT: Within the last five years?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Anybody arrested as far as
14 you know?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Continue.

17 PROSPECTIVE JUROR: I've never been a
18 party to a civil lawsuit. Given -- I would be
19 fair and impartial. I live on the Upper West Side.

20 THE COURT: Anything else?

21 PROSPECTIVE JUROR: I have a friend who
22 recently overdosed on cocaine.

23 THE COURT: Died?

24 PROSPECTIVE JUROR: Yes. I would be fair
25 and impartial.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: You satisfied you could be
2 fair notwithstanding that?

3 PROSPECTIVE JUROR: Yes. The death was in
4 the City of New York borough of Manhattan?

5 PROSPECTIVE JUROR: Yes. Recently.

6 THE COURT: Funeral happen?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Within the last month?

9 PROSPECTIVE JUROR: No.

10 THE COURT: How do you know it was
11 cocaine?

12 PROSPECTIVE JUROR: I was told it was.

13 THE COURT: You are satisfied you can do
14 this?

15 PROSPECTIVE JUROR: Uh-huh.

16 THE COURT: Next is Ms. August.

17 PROSPECTIVE JUROR: Born in New York
18 City. Lived here for 43 years, my whole live
19 life. Three relatives in New York City. I'm
20 married. I work. I'm a primary care giver at a
21 company that I design and manufacturer. My High
22 School is in commercial real estate. I have two
23 kids. I'm a college graduate.

24 THE COURT: How old?

25 PROSPECTIVE JUROR: Nine.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Speak yet about drugs?

2 PROSPECTIVE JUROR: Yes, I have. I have
3 served on a criminal jury.

4 THE COURT: Don't tell me the verdict,
5 but what was the charge, if you recall?

6 PROSPECTIVE JUROR: Robbery.

7 THE COURT: A face-to-face confrontation?

8 PROSPECTIVE JUROR: Yea.

9 THE COURT: More than one person or just
10 one?

11 PROSPECTIVE JUROR: Just one.
12 About 20 years ago.

13 THE COURT: Did anyone speak to you after
14 you reached the verdict, such as judge or lawyers?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Continue.

17 PROSPECTIVE JUROR: I have never served
18 on a Grand Jury. Never served in the military.
19 Neither I or anybody I know ever served in law
20 enforcement. I have been the victim of a crime.
21 My brother-in-law recently, last week, was
22 involved in a crime.

23 THE COURT: What happened?

24 PROSPECTIVE JUROR: He was in the bank
25 and the bank was held up at gunpoint in Boston.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Were guns fired?

2 PROSPECTIVE JUROR: I don't know if shots
3 were fired. It's being investigated by the FBI
4 right now.

5 THE COURT: What happened to you?

6 PROSPECTIVE JUROR: My apartment was
7 burglarized.

8 THE COURT: Were you home when it
9 happened?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Did you report it?

12 PROSPECTIVE JUROR: I reported it.

13 THE COURT: You spoke with the police?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: As far as you know, was
16 anybody arrested?

17 PROSPECTIVE JUROR: Nothing has happened.

18 THE COURT: Continue.

19 PROSPECTIVE JUROR: I have never been a
20 party to a civil lawsuit or in court for any other
21 reason. I would be fair and impartial. Able to
22 be fair and impartial, I believe. I live in the
23 Upper East Side.

24 THE COURT: Anything else we should know?

25 PROSPECTIVE JUROR: No.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Mr. Dunford.

2 PROSPECTIVE JUROR: I was born in
3 Bermuda. I have lived in New York for three
4 years.

5 THE COURT: U.S. citizen?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: No relatives in New York
8 City. Not married. I'm work with a design
9 company and handbag company. I don't have any
10 children. I have a college education. I've never
11 served in a criminal jury or jury or verdict or
12 anything like that. Never did Grand Jury. Never
13 did military service. I have an uncle who's a
14 judge, but haven't talked to him in the last two
15 or three years.

16 THE COURT: He might be lonely.

17 PROSPECTIVE JUROR: I've been part of a
18 crime. Gotten bashed in the head with a thing or
19 two.

20 THE COURT: Were you hurt when you were
21 bashed?

22 PROSPECTIVE JUROR: Yes, in my 'hood,
23 Spanish Harlem.

24 THE COURT: Were you bashed by more than
25 one person?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: It was one time. It
2 was an object that someone threw at me. That's how
3 I have this scar. Never a party of a lawsuit. I
4 think I can be fair and impartial.

5 THE COURT: What does "I think" mean?

6 PROSPECTIVE JUROR: I have friends who
7 have done drugs. I never done anything. I'm
8 pretty compliant with them, so it's okay. I'm
9 currently -- I live in Spanish Harlem, but I'm
10 moving to Washington Heights.

11 THE COURT: Your friends do some drugs?
12 A lot of drugs? A lot of your friends do a lot
13 drugs?

14 PROSPECTIVE JUROR: Six degrees of
15 separation is a more or less amount. For me, once
16 every year or so.

17 THE COURT: Since that's illegal and I
18 gather you've seen them doing it and it doesn't
19 grow on trees.

20 PROSPECTIVE JUROR: I have no clue. Don't
21 want to know. That's about it.

22 THE COURT: This gentleman is accused of
23 possessing a certain amount of drugs. Your
24 friends possessed a certain amount of drugs.
25 Nobody would ask you to assess your friend's

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 situation, but are you in a position of worrying
2 about them, but for some fortuitous circumstance,
3 perhaps your friends might be.

4 PROSPECTIVE JUROR: No.

5 THE COURT: Can you decide this case
6 without imagining your friends there?

7 PROSPECTIVE JUROR: Yeah, I'm fine.

8 THE COURT: If you are fine, I'm fine.
9 Anything else we need to know?

10 PROSPECTIVE JUROR: Everything is a
11 little blurry from here on. I just had laser
12 surgery. I can read kind of.

13 THE COURT: Part of the assessment of
14 witnesses has to do with looking at them and
15 gauging whatever you can glean from how they
16 appear. Do you think it will clear up by tomorrow?

17 PROSPECTIVE JUROR: I hope so.

18 THE COURT: What has the doctor told you?

19 PROSPECTIVE JUROR: I have my
20 appointment -- they put a contact on your eye.
21 It's kind of protected. They'll take it out and it
22 will be clear.

23 THE COURT: How will you be a juror if
24 you are not here tomorrow?

25 PROSPECTIVE JUROR: I made it later in

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 the day.

2 THE COURT: Can't have a juror who might
3 not be able to see the witnesses. You're excused.

4 PROSPECTIVE JUROR: Karachi, Pakistan. I
5 have lived in the U.S. for 27 years. I've lived
6 in New York for three years. Live in New Jersey
7 prior to that. I have three relatives in New York
8 City. I'm married. I'm genetic counselor and I
9 run a center for prenatal pediatrics for women in
10 pregnancy with human anomalies. My husband is in
11 business school. We have no children. I have a
12 Master's in human genetics. I never served on a
13 criminal or civil jury, never Grand Jury. Never
14 been in the military. I don't have any close
15 relatives or friends employed by law enforcement
16 agency. I don't have any close relative or friends
17 ever been a victim of a crime. I've never been a
18 party to a civil lawsuit or in court for any
19 reason. I do believe I will follow the law as the
20 Court instructs. I live on the Upper West Side.

21 THE COURT: Anything else?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Ms. Sher.

24 PROSPECTIVE JUROR: Well, I have an adult
25 child who was a drug addict.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: You don't think this is a
2 good idea?

3 PROSPECTIVE JUROR: I'm not sure.

4 THE COURT: You're excused. Sorry you had
5 to say that in public.

6 Fill seat number six.

7 THE CLERK: Sarah Wardrop, seat number
8 six.

9 PROSPECTIVE JUROR: Born in Ontario,
10 Canada. U.S. citizen.

11 THE COURT: Duel?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Do you fight?

14 PROSPECTIVE JUROR: What's that?

15 THE COURT: It's what I do, and have.
16 After lunch it's more difficult to keep people
17 focused out there, so there might be a little more
18 of the idiocy in the afternoon than in the
19 morning.

20 PROSPECTIVE JUROR: Lived in New York
21 City three years. One relative in the city. Not
22 married. I work in radio. I don't have any
23 children.

24 THE COURT: What do you do in radio?

25 PROSPECTIVE JUROR: Producer and on air

VOIR DIRE

1 host.

2 THE COURT: Public affairs, comedy?

3 PROSPECTIVE JUROR: Music radio.

4 THE COURT: Go ahead.

5 PROSPECTIVE JUROR: College. Never served
6 on any kind of jury or the military. Don't have
7 friends or relatives who work in law enforcement.
8 I've been the victim of identity theft.

9 THE COURT: Is that situation over with
10 or not?

11 PROSPECTIVE JUROR: Not over with.

12 THE COURT: Knock on wood means, yes,
13 it's over.

14 PROSPECTIVE JUROR: Hoping it's over.

15 THE COURT: In what state did you
16 experience the problem?

17 PROSPECTIVE JUROR: It was while I was --
18 currently living in New York City, but happened in
19 Chicago.

20 THE COURT: Did it require police to get
21 involved? Was it store security?

22 PROSPECTIVE JUROR: There was a police
23 report filed.

24 THE COURT: Continue.

25 PROSPECTIVE JUROR: My sister was the

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 victim of a robbery. Never a party to a civil
2 lawsuit or in court for any other reason. I
3 believe I will follow the law as the Court
4 instructs and will be fair and impartial. I live
5 in Inwood.

6 THE COURT: Anything else?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Next is Mr. Makarian.

9 PROSPECTIVE JUROR: I was born in a
10 Aveniu (phonetic). Former Soviet Socialist
11 Republic country. I lived in New York City
12 for 30 years. I have about five relatives in New
13 York City. I'm married. Working as a commodities
14 trader. My spouse is an attorney. I have two
15 kids.

16 THE COURT: How old are your children?

17 PROSPECTIVE JUROR: They are 13 and
18 three.

19 THE COURT: Have you spoken to
20 the 13-year-old about drugs?

21 PROSPECTIVE JUROR: You bet.

22 THE COURT: Have you spoken to the
23 three-year old about drugs?

24 PROSPECTIVE JUROR: Almost. Starting it.
25 College degree. Never served in criminal jury.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Never served on a Grand Jury as well. Haven't
2 served in the military. I have a friend in
3 California who is a judge, and friends who are
4 police officers.

5 THE COURT: Where do the police officers
6 work?

7 PROSPECTIVE JUROR: Westchester County.

8 THE COURT: Any of them do principally
9 drug enforcement?

10 PROSPECTIVE JUROR: Sheriff. I'm victim
11 of a homicide. My father was shot in New York
12 City.

13 THE COURT: Do you remember what kind of
14 event?

15 PROSPECTIVE JUROR: It was a funeral and
16 was attending with my mother. He tried to correct
17 a disturbance and he was called out and shot
18 twice.

19 THE COURT: How long ago was that?

20 PROSPECTIVE JUROR: This was 1985.

21 THE COURT: Was anybody arrested?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Do you know what happened to
24 that case?

25 PROSPECTIVE JUROR: Yes.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Are you satisfied with what
2 happened to that case?

3 PROSPECTIVE JUROR: Not really.

4 THE COURT: How is that going to affect
5 you here?

6 PROSPECTIVE JUROR: I don't know.

7 THE COURT: You are excused. Please step
8 out.

9 Fill seat number seven.

10 THE CLERK: Ardelia Leonardo, seat number
11 seven.

12 THE COURT: I'm not going to criticize
13 somebody whose father was shot and killed. That's
14 the sort of thing and a lot less than that that
15 you should mention right away if there's something
16 that might disqualify you.

17 Ms. Leonardo, go ahead.

18 PROSPECTIVE JUROR: I'm Dominican. Born
19 Dominican Republic. I live like seven years. I
20 know like 20 people.

21 THE COURT: Twenty people relatives here?

22 PROSPECTIVE JUROR: Around my
23 neighborhood. I not married. I working.

24 THE COURT: What do you do?

25 PROSPECTIVE JUROR: Sale.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Sales?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: What do you sell?

4 PROSPECTIVE JUROR: Furniture.

5 THE COURT: Is it easier to sell tables
6 or chairs?

7 PROSPECTIVE JUROR: Chairs. I don't have
8 children. I never been over here.

9 THE COURT: Not bad right? Meet some
10 nice people?

11 PROSPECTIVE JUROR: Okay, yeah.

12 THE COURT: Have you served on a Grand
13 Jury?

14 PROSPECTIVE JUROR: No.

15 THE COURT: This will be a Grand Jury,
16 but it's not a Grand Jury. It's a grand group of
17 folks. No, you haven't been on one, I can tell.

18 PROSPECTIVE JUROR: Yeah, my brother is
19 undercover.

20 THE COURT: How long has he been a police
21 officer?

22 PROSPECTIVE JUROR: Like 20 years.

23 THE COURT: You are his little sister?
24 Continue. Nobody has taken your property, stole
25 anything from you?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 THE COURT: Have you ever been in court
3 at all?

4 PROSPECTIVE JUROR: This is the first
5 time.

6 THE COURT: Can you be fair here?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: In what neighborhood do you
9 live?

10 PROSPECTIVE JUROR: Washington Heights.

11 THE COURT: Anything else we should know?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Mr. Wah.

14 PROSPECTIVE JUROR: Born in New York
15 City. Lived here my whole life. Ten relatives.
16 Single. I work. Venture capital. I have no
17 children. I have a graduate degree. I've never
18 been on a jury. Never been in the military. I
19 don't have any friends in law enforcement. I was
20 the victim of a crime.

21 THE COURT: What happened?

22 PROSPECTIVE JUROR: Carjacked
23 about 12 years ago in the city.

24 THE COURT: Why do you think that
25 happened? Wrong place wrong time?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: If you consider 75th
2 and Park the wrong place?

3 THE COURT: Were you physically hurt?

4 PROSPECTIVE JUROR: No.

5 THE COURT: As far as you know, was
6 anybody arrested?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Continue.

9 PROSPECTIVE JUROR: I have been a party
10 to civil suits.

11 THE COURT: Roughly how many times?

12 PROSPECTIVE JUROR: Four or five.

13 THE COURT: During time the cases were
14 ongoing, were you ever questioned by the other
15 side's lawyer?

16 PROSPECTIVE JUROR: Yes. During
17 depositions.

18 THE COURT: Did it seem as if your word
19 was being challenged or did they want additional
20 information?

21 PROSPECTIVE JUROR: Both.

22 THE COURT: During the course of a
23 litigation people get challenged and you're likely
24 to see that here.

25 PROSPECTIVE JUROR: Yeah. I'm sure I can

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 be impartial. I live in Tribeca.

2 THE COURT: Anything else we should know?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Mr. Higgins.

5 PROSPECTIVE JUROR: Born in the Bronx.
6 Currently live in Harlem. I've been in New York
7 City all my life.

8 THE COURT: Do you live within three
9 blocks of Lenox and 132nd?

10 PROSPECTIVE JUROR: No. I have about 15
11 relatives in the city. Not married. Working,
12 consultant, fund raising marketing.

13 THE COURT: How do you know how to do
14 that?

15 PROSPECTIVE JUROR: It's a people sort of
16 job.

17 THE COURT: You can be a judge. Go ahead.

18 PROSPECTIVE JUROR: No children. College
19 degree. Never served on a jury. Never served on
20 a Grand Jury. No military. I have a few friends
21 who are officers.

22 THE COURT: What kind of work do they do,
23 if you know?

24 PROSPECTIVE JUROR: Couple of friends in
25 the 32nd Precinct and 28th Precinct.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 THE COURT: Every see of any of them as
2 you are walking around your neighborhood, see any
3 of your friends driving or walking by, in police
4 cars or plainclothes?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Do they wave or keep
7 themselves quiet?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Some of them do drug
10 enforcement?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Do you call them about how
13 you should do your fund raising?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Do they ever call you about
16 how they should do their drug enforcement?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Continue.

19 PROSPECTIVE JUROR: I don't think I have
20 any relatives who have been convicted of a crime.
21 I have been a party to lawsuit twice.

22 THE COURT: Is it over?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: During time it was going on,
25 were you deposed?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Were you challenged?

3 PROSPECTIVE JUROR: Kind of same way he
4 felt. I can be fair and impartial.

5 THE COURT: How long have you been a fund
6 raiser?

7 PROSPECTIVE JUROR: About six years.

8 THE COURT: Thank you.

9 Mr. Antonio.

10 PROSPECTIVE JUROR: Sorry, don't
11 understand.

12 THE COURT: I'm sorry you don't
13 understand. You can leave.

14 THE CLERK: Robert Sargenti.

15 PROSPECTIVE JUROR: I was born in New
16 Jersey. I listed in New York for 12 years. I have
17 five relatives. I'm married. Two kids, three and
18 five. All we talk about is cough medicine. Those
19 are the only drugs we talk about.

20 THE COURT: Which one do they like?

21 PROSPECTIVE JUROR: They like cherry.

22 THE COURT: Grape was well when I left.
23 Go ahead.

24 PROSPECTIVE JUROR: I'm a self-employed
25 architect. My wife is a stay-at-home mom.

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 Education, graduate degree. I have not been on --
2 I've been on no jury. I have never been in the
3 military. I have never been in the military. My
4 cousin is a state cop who I haven't seen many,
5 many years and a friend who is a policeman in New
6 Jersey. He's, I don't know, just a regular
7 small-town cop. I've been a victim of a crime,
8 robbed at knifepoint.

9 THE COURT: More than one person or one
10 person?

11 PROSPECTIVE JUROR: One person. I had my
12 car stolen in New York.

13 THE COURT: Something you arranged or did
14 it just happen?

15 PROSPECTIVE JUROR: I definitely did not
16 have it arranged.

17 THE COURT: How long ago was that?

18 PROSPECTIVE JUROR: Five, six years ago.

19 THE COURT: You can't be prosecuted if
20 you had your car stolen because it's past the
21 statute of limitations.

22 PROSPECTIVE JUROR: My brother was beaten
23 in an altercation, severely hurt. It was college
24 kids fighting, that kind of thing.

25 THE COURT: Was anybody arrested?

YVETTE PACHECO SENIOR COURT REPORTER

VOIR DIRE

1 PROSPECTIVE JUROR: No. I've been in
2 lawsuits before, mostly architecture and
3 construction type of thing.

4 THE COURT: Questioned by the adversary's
5 attorneys?

6 PROSPECTIVE JUROR: No, I have not. Not
7 in a formal sense. I live in the Upper East Side.
8 I can be fair and impartial.

9 THE COURT: Anything else we should know?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Ms. Crystal.

12 PROSPECTIVE JUROR: Born in Pittsburgh.
13 Lived in New York 40 years. I have about five
14 relatives in New York. I'm divorced. I am an
15 executive recruiter. I have two grown children.
16 College graduate. I served on New York City
17 criminal Grand Jury, narcotics division.

18 THE COURT: How long were you on that
19 Grand Jury?

20 PROSPECTIVE JUROR: Exactly eight years
21 ago today, and get excused for eight years from
22 jury duty after.

23 THE COURT: Sounds like a memorable
24 experience. So you remember, I hope, I trust,
25 that you know your services at Grand Jury, that a

YVETTE PACHECO SENIOR COURT REPORTER